

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

March 18, 2016

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, MARCH 18, 2016, BEGINNING AT 9:00 A.M., WITH PRESIDING OFFICER PRO TEMPORE MICHAEL P. VICTORINO PRESIDING.

COUNCILMEMBER VICTORINO: Clerk, will you call roll call.

### ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., S. STACY CRIVELLO, G. RIKI HOKAMA, MICHAEL P. VICTORINO, AND VICE-CHAIR DONALD S. GUZMAN.

EXCUSED: CHAIR MICHAEL B. WHITE.

COUNTY CLERK DENNIS A. MATEO: Mr. Chair, there's eight Members present and one excused. A quorum is present to conduct the business of the Council.

COUNCILMEMBER VICTORINO: Thank you. And, before we get started, we would like to send our most heartfelt well wishes to our Chair, Mr. Mike White. Hopefully he'll be back with us next week. We all know this type of flu and cold that's been going around has been very, very profound. And, so we wish him well and hopefully he'll be back with us next week.

This morning we have opening remarks for our Council will be done by South Maui Councilmember Mr. Don Couch. Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

### OPENING REMARKS

The opening remarks were offered by Councilmember Don Couch.

COUNCILMEMBER VICTORINO: Okay, will you all please join me and rise, and repeat, recite the Pledge of Allegiance.

### PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

COUNCILMEMBER VICTORINO: Thank you, Mr. Couch for those inspiring words.

Before we proceed in today's agenda, may I please request everyone put their cellphones on silent or any non-noisemaking program. Decorum in this Council will be maintained at all times.

First of all, do we have testimony on the ceremonial resolution?

COUNTY CLERK: No we do not, Mr. Chair.

COUNCILMEMBER VICTORINO: Thank you, Mr. Clerk. So.

COUNTY CLERK: Mr. Chair, would you want me to proceed with ceremonial resolution.

COUNCILMEMBER VICTORINO: Would you proceed with ceremonial resolutions, that, that's, excuse me, go ahead.

### CEREMONIAL RESOLUTIONS

RESOLUTION  
NO. 16-33

CONGRATULATING THE SEABURY HALL  
MIXED PADDLING TEAM ON WINNING  
THE 2016 STATE TITLE

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

ON BEHALF OF CHAIR WHITE, I MOVE TO ADOPT THE  
RESOLUTION ENTITLED CONGRATULATION,  
"CONGRATULATING THE SEABURY HALL MIXED  
PADDLING TEAM ON WINNING THE 2016 TITLE, STATE  
TITLE".

COUNCILMEMBER COUCH:

SECOND.

COUNCILMEMBER VICTORINO: Been moved by Mr. Guzman, and seconded by  
Mr. Couch.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. May I please request the Clerk to read the  
resolution in its entirety?

COUNCILMEMBER VICTORINO: Mr. Clerk.

*The resolution was read in its entirety.*

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. It is great pleasure and honor that we recognize  
the Seabury Hall mixed paddling team on winning the 2016 First Hawaiian Bank  
Canoe Paddling State Championships mixed title.

In the Spartan way, oo-rah. I am very proud of the talented paddlers that we have  
here in our County. Not only did the Seabury Hall sweep the Maui Interscholastic  
League, but they also dominated much larger schools throughout the State, and this  
must be very much so commended. To achieve what they accomplished, I know that  
it took hours and hours of hard work and dedication. These young men and women  
have represented Seabury and the County with pride in their championship.

I would also like to recognize coaches Mr. Paul Luuwai and Ms. Michelle Cerizo. These coaches have built a strong program for Seabury. And, this is Coach Luuwai's third paddling State title and second title at Seabury.

You can see that there's many talents, but, very, very much so many talented athletes here in our County, and therefore, we on this Council must recognize and honor them. I'd like to also recognize the parents who also play a very important part in the success of these athletes in our County. I'd like to take this moment to have the parents of the students please stand and rise and be recognized. Thank you.

Finally, I would like to recognize the Seabury Hall Headmaster Ms. Sarah Bakhiet, and the school's new Headmaster. Mr. Robert Dougherty, the Athletics Director. Thank you for providing a wonderful opportunity for our students throughout the County, and in your school. Mahalo, Chair.

COUNCILMEMBER VICTORINO: Thank you, Mr. Guzman.

Any other comments?

I'll start with you Mr. Carroll, and work my way right down. Go ahead, Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I'm so happy that we're able to honor them today; the paddlers, the coaches, the parents, and all the supporters, because canoe paddling is a community activity. It's something that everybody gets involved in. And, of course, the paddlers themselves, they are the ones that were actually out there on the frontline, and they were the ones that actually did the work. But, they did it with the support of all those other people, and I'm proud of every one of them. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Carroll.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And, I too would like to add my congratulations, and just express the honor that we feel when our young people go out and do these wonderful things.

You know, it seems like we do this a lot here in this Council. We have an incredible amount of outstanding athletes in this community; it's just amazing. And so, I too would like to congratulate them, and offer my thanks to all those who make it happen, from their parents to coaches, to everyone in the community, and congratulate Seabury for doing a great job. Thank you.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, I guess I have, I'm extremely proud being that I, alumni of this school. And, when I went, was there back in the day, you know, with seven people in my grade, five people in my seventh grade class, 150 in the entire school, we were not recognized in any sport, in really anything. Just by the sheer small student body that we had, and could not compete with other, you know, big schools out there. And so, it's, you know, we were just a little blip on the radar and now we're the honing beacon.

And, I'm just so excited to be here to see this, and to see it reoccurring quite often, actually, as Ms. Baisa mentioned; not just by Seabury but other schools too.

So, congratulations to all. And, keeping up the spirit of Seabury Hall. And, I didn't really realize it, but I kind of wore the, kind of like the dress code for the school today not really realizing it. But, it was probably subconsciously I had done that but, so just bringing me back to the days of wearing my uniform at the school. And, congratulations to the family, to the school which is awesome. They produced me. And, we'll see more, more accolades come this way again. So, thank you very much for this time, Chair.

COUNCILMEMBER VICTORINO: Thank you, Ms. Cochran.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I want to echo the sentiments of my colleagues. Having paddled, I know how difficult it is to win a race let alone win every race that they've done in the MIL for sure, so they, I know the hard work it takes. So, I just want to congratulate them.

And, then of course, thank the parents for giving them the support to, to do that. So, thank you.

COUNCILMEMBER VICTORINO: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I, I join the rest of all of our County, including Molokai, to extend our heartiest congratulations. You make us proud. And more especially for your commitment and dedication to work hard. We all know how

hard it is. But, to be out there with some top, top competitors, you, you have certainly exhibited your, your, your hard work.

Also want to extend a special congratulations to the parents and the coaches for all of your, your dedication and commitment too. Mahalo.

COUNCILMEMBER VICTORINO: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. There's not much more to say for these champions, as we should be calling them. I would just say though, in the non-traditional sense, nothing works better for peers to look at their fellow peers as role models. And, these young people are outstanding role models for peers, who when looked at one another, know that they're going through similar changes and challenges in life. They have the same type of situations at the school communities, back at home, and I think these are outstanding young people who are true role models for, not only adults, but for their own young people themselves. And, I think that is a, one of the best examples that they can do for one another.

So to these champions, I say thank you very much. And, continue the good work on behalf of your family, your school, and your community. Thank you.

COUNCILMEMBER VICTORINO: Thank you. And, I'll concur with what all that has been said. But, I'll add, I love when you beat Punahou.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER COUCH: Yes.

COUNCILMEMBER VICTORINO: You know, cause Punahou has been the nemesis of the neighbor islands and, and, and really the OIA, and anybody, you know. Everything is Punahou, Punahou, and so I was happy when I saw that. And, to be very frank with you, that's the comment I have.

And, I'll also add that you bring the, what is the culture of Hawaii Nei, and you bring it out to its finest. And for a little school on Maui, and you know you're not the biggest school yet, you really bring a lot of pride. And, I love when Maui schools and our little schools like Seabury can get out there and kick some booty on Punahou. And, that's all I have to say about that. I guess I'll never be able to enter Punahou's campus anymore, but that's okay. I'm just really congratulate the champions, you Seabury Hall. Thank you very, very much.

So, at, with no further discussion, I'll call for the vote. All those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: So let the record show eight "ayes", one "absent", Mr., our, our Chair, Mr. White, and we will, I'll not repeat that the rest of the day as far as the vote when I say one "absent", okay, I mean one "excused", excuse me, for the, for the meeting.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. May I request that the, the paddling team, along with their coaches, come to the floor to receive their accolades from the Council.

COUNCILMEMBER VICTORINO: So, so approved.

VICE-CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: Mr. Guzman, go ahead.

VICE-CHAIR GUZMAN: Thank you, Chair. It is with great pleasure that I introduce the Coach of the State Champions, Mr. Paul Luuwai.

COACH PAUL LUUWAI: Mr. Chair, Councilmembers, thank you so much for this great honor. On behalf of our school, our, our team, my Athletic Director, a very heartfelt mahalo. I hope we can visit you again in the future.

I know the kids really trained hard, and they earned whatever they got. And, most of them are going to go, in a month we're going to go to Australia to represent Maui and Hawaii in the World Championships, in the beginning of May.

So, very much mahalos. Thank you. It's a great honor to represent Maui. And, thank you.

VICE-CHAIR GUZMAN: Thank you, Chair.

COUNCILMEMBER VICTORINO: All right, thank you. And, good luck in Australia to all of you. Best of luck.

Okay, Members. Mr. Clerk will you proceed please.

COUNTY CLERK: Mr. Chair, for the record, RESOLUTION NO. 16-33.

Mr. Chair, proceeding with presentation of testimony on agenda items. We've established limited telephone interactive communication that enables individuals from Hana, Lanai, and Molokai to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai should sign up with the District Office staff. Individuals who wish to offer testimony in the chamber, please sign up at the desk located on the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

And, pursuant to the Rules of the Council, each testifier is allowed to testify for up to three minutes, with one minute to conclude if requested. And when testifying, please state your name and the name of any organization you represent.

Hana Office, please identify yourself and introduce your first testifier.

MS. DAWN LONO: Good morning, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

COUNTY CLERK: Thank you.

Mr. Chair, for your information and the Members information, Lanai Office is not available this morning.



COUNCILMEMBER VICTORINO: Thank you, Mr. Clerk.

COUNTY CLERK: We have, we have six individuals who have signed up to testify this morning in the Council chamber. The first person to provide testimony this morning is Susan Guille, Board member, Tom Morrow Equestrian Arena, testifying on Committee Report 16-44, to be followed by Michael Moran.

### PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. SUSAN GUILLE (testifying on Committee Report 16-44):

Good morning, Chair Victorino and Members of the Maui County Council. I'm Susan Guille, I'm a Board member of the Tom Morrow Equestrian Arena, and I'm here today testifying in support of the renewal of the lease of real property for the Tom Morrow Equestrian Arena.

It is located in the back of the Fourth Marine Park on Kokomo Road in Haiku. The arena has been successfully operating as a community arena for over 13 years, and has served many riders during this time.

We would like to continue Tom Morrow's dream to have a community arena available to all horse owners to enjoy riding in a safe environment for now and for future generations.

The Tom Morrow Equestrian Arena volunteer management has provided this opportunity for the community. The facility is well-maintained and available on a daily basis for use.

We appreciate your time and consideration on this matter.

COUNCILMEMBER VICTORINO: Thank you, Ms. Guille.

Any questions for the testifier? Seeing none, thank you very much.

MS. GUILLE: Thank you.

COUNCILMEMBER VICTORINO: Next testifier please, Mr. Chair, I mean, Mr. Clerk.

COUNTY CLERK: Next testifier is Michael Moran, testifying on Committee Report 16-48. Mr. Moran is the President of the Kihei Community Association, to be followed by Paula Loomis.

MR. MICHAEL MORAN (testifying on Committee Report 16-48):

Good morning, Council. First, I would like to, I'm Mike Moran for the Kihei Community Association. First, I would like to thank our South Maui Councilmember Don Couch for mentioning the KCA meeting on the homeless issue. We thought it was a very good meeting. We had 100, about 100 people present. But, by mentioning it here, obviously it spreads the word and, to the people that were here, and, as well as our good friends at Akaku spread it even further. So, thank you very much, Councilmember Couch for doing that.

And also for giving us an update on the, the Bows score. I'll take my hat off now, but I wanted to leave that on till I said that. And also, with the, seeing who was running the meeting this morning, I did kind of expect maybe would have the game on the big screen, but no such luck.

COUNCILMEMBER VICTORINO: I tried.

MR. MORAN: Okay, thank you. We're here this morning to express our association's and community's support for adopting this item referred to you from the PIA Committee of the appointment of Antoinette Lucienne de Naie to the Board of Water Supply beginning next month.

As we expressed to the Committee, when many of you were participating, most everyone already knows Lucienne and has seen countless examples of her extensive knowledge on a wide variety of topics, including water. Beyond that, she has an outstanding manner of working collaboratively whether in agreement on a topic or not, and is an individual of impeccable integrity.

And, while this ability to work collaboratively with the group is a strong asset, we have never observed that she has let her desire to get along with others impede stating the facts even if someone may not like them.

When she is going to examine or discuss a topic, she does extensive research on the matter before taking action. And, coupled with her sharp mind and marvelous memory, and her extraordinary concern for the natural environment, she would be an outstanding member of the Board of Water Supply.

So, in summation, extensive knowledge, strong concern, and impeccable integrity, combine to make her an outstanding individual for this volunteer position. Please, please approve her appointment. Mahalo.

COUNCILMEMBER VICTORINO: Thank you, Mr. Moran. Any questions for the testifier?  
Seeing none, thank you, Mr. Moran.

COUNTY CLERK: The next testifier--

COUNCILMEMBER VICTORINO: Next testifier please. I'm sorry.

COUNTY CLERK: --is Paula Loomis, Board member with the Tom Morrow Equestrian Association, to be followed by Pat Borge.

MS. PAULA LOOMIS (testifying on Committee Report 16-44):

Good morning.

COUNCILMEMBER VICTORINO: Good morning.

MS. LOOMIS: I'm Paula Loomis, member of the Board of the Tom Morrow Equestrian Arena. I'd like to present the written testimony of our current President, Sharon Freitas, who is off-island, and she was not able to make it back for this meeting here today. She has written this testimony on behalf of the Board.

As you know, the Tom Morrow Equestrian Center has managed and operated the arena facility since it opened in 2002. In all that time, we have not come back to the County for funds to run this arena. We've paid our own bills and kept it self-sufficient, and we intend to keep it that way.

The arena was conceived as a facility open to anyone in the community, and it continues to welcome riders of all different disciplines. It is different from other arenas, it's not limited to the members of, of any club or any one group.

The hundreds of individuals and families that have used the arena over the years have found it to be well-maintained and always open for their recreational use.

The arena has also served the community by hosting many events. Horse shows, competitions, clinics and practices have been held there over the years and it continues to be available for these organized activities.

Over the years, other arenas have been built as private facilities, and these have offered alternatives for some riders. However, our Tom Morrow Arena remains the one equestrian facility open to everyone, that we know of.

And, now that the days of riding freely across the island are long gone, and the options for getting out somewhere to ride safely are very limited; a facility like the Tom Morrow Arena is needed more and more by the community.

We all value the agricultural character and lifestyle of this island. Horses and riding have contributed to this history and tradition since they were introduced to these islands more than 200 years ago.

We're fortunate that our equestrian heritage continues today, and the lives of many residents and families who devote their time, their effort, their money, their property, their passion to it. And, it was this important tradition in history that Tom Morrow wanted to acknowledge and perpetuate by building this arena.

Our board has a vision that the arena will continue to be there in the future as a recreational resource of the community. And, it will continue to be well-maintained, well-managed, safe and self-sufficient, and open to everyone. We're committed to this.

And so, we ask that you grant this lease to the Tom Morrow Equestrian Center, and thank you for your kind consideration.

COUNCILMEMBER VICTORINO: Thank you. Any questions of clarification to the testifier?

Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

And, good morning, thank you for being here. In this testimony, I was looking at, I guess like, like paragraph five or so, in regards to hosting many events.

MS. LOOMIS: Yes.

COUNCILMEMBER COCHRAN: And, the list of events saying horse shows, competitions. Competitions, would that be rodeos? Cause, I don't see actually the word rodeo here, or, you know, roping event, or anything like that.

MS. LOOMIS: Yes, I believe, I believe in, especially in the earlier days, there were some rodeos, they were high school rodeos, or. And, I think Sharon could answer this better than I could because I think she, she actually held them there.

COUNCILMEMBER COCHRAN: Okay. Okay. No, I, I was just curious cause in the past discussion during especially Committee, I think that was some of the points being made that not all, not truly all riding disciplines are occurring there, especially the roping, you know, rodeo type riders, and users. So, to say every single type of discipline is happening--

MS. LOOMIS: No.

COUNCILMEMBER COCHRAN: --to me is not quite true at this point. And, perhaps you folks are looking to upgrade in order to accommodate. But, since 2002, that has not been done. So, that's why I, you know, it still lingers in me as a concern about the arena.

MS. LOOMIS: It, it lingers. I think I hear you saying that that we have not accommodated every, everyone there. This is actually before my time there. But, it's my understanding that we have had barrel racing competitions. We have had rodeos. There had been ropings there. These things are not occurring there now, that is true. It's not, it is not because they're not welcomed there. It is not because they are not, it is not open for that.

It, it really takes quite a bit of effort. It takes a lot of resources to mount any kind of a competition, a show, a rodeo, a roping that go, there's a lot that goes into it. And, I think that people who do that have to bring that wherewithal, and those resources to enable that to occur.

The one thing about the arena, the reason perhaps why it may not be as welcoming to roping, for example, might simply be because there are no cattle already in near proximity. That means that you have to actually bring them in. And, again, if you're going to do an activity like that, you have to be, you know, be organized enough to be able to do that.

Again, the arena has always been open for those activities. If people are not choosing to do them there lately, it could be because they have other alternatives. It could be because, and we have heard it, it, testimony to this effect that it is not, that the arena itself is not accommodating for that.

And, yes, we have been talking, as you know, to yourself and some other Councilmembers about what can be done to fix the footing in the arena that would make that more safe for that type of impact in activity that isn't being held there now.

(Councilmember Carroll was excused from the meeting at 9:34 a.m.)

MS. LOOMIS: But, I would like to say that there's probably a whole lot more to it as to why such an activity isn't going on there.

COUNCILMEMBER COCHRAN: Okay. Well, thank you. Thank you very much for your comments.

Chair, thank you very much for that time.

COUNCILMEMBER VICTORINO: Thank you. Any other questions for the testifier. Seeing none, and thank you very, very much.

MS. LOOMIS: Thank you.

COUNCILMEMBER VICTORINO: And I, we are aware of the inadequacies of the arena and that some of the improvements that, or maintenance that needs to be done. And, hopefully you will, and your group will be able to accommodate and, and get that taken care of so then it would become available if desired.

MS. LOOMIS: We understand. Thank you so much for your support.

COUNCILMEMBER VICTORINO: Thank you.

Next testifier please, Mr. Clerk.

COUNTY CLERK: Mr. Pat Borge testifying on Committee Report 16-44, to be followed by Marilyn McAteer.

MR. PAT BORGE (testifying on Committee Report 16-44):

Good morning, Mr. Chair, Councilmembers.

COUNCILMEMBER VICTORINO: Good morning.

MR. BORGE: Well, it came to my attention that much, if not all the work that was done at this arena when it first started was all volunteer work. In 2001, I've made a lot of phone calls. One of the main guys is on the Big Island right now. I don't want to give his name, but if anybody want to talk to him, I'll call him and you can talk to him.

From, from the equipment to the sand, most of it was donated. In 2001, the County appropriated \$175,000 to Tom Morrow's arena. In 2002, the County gave her another \$75,000. You talking 200 and something thousand dollars. If I had 200 and

something thousand dollars, I'll make a covered arena. When you look at that arena and I go down there, and I look at what's at that arena, there's no way there's more than, there's no \$200,000 in that arena. So, before we continue on this lease, or if you notice her letter that she wrote to everybody that she's going to be coming before you for more money for, to redo the sand.

From my opinion, Tom Morrow's arena is in the wrong place cause it rains all the time. Right now, we've got this el nino thing in February so it's nice and green. But when that trade winds come, Tom Morrow's arena is in the rain line.

Cause, if you can see the Fourth Marine Division Park, they had to replace all the playground equipment cause of the rain. And, and that's why the footing is so bad. I don't care what they do in that arena, they have the same problem at Kaupakalua because it rains too much and the footing will never be safe for our type of activity. I, I'm not going to take my \$20,000 horse in a, in a arena like that. I care for my animals.

But anyway, before, I as a taxpayer, and I'm speaking for a lot of people who worked on that arena, want to know where the 200 and something thousand dollars went. Because I will swear on a stack of bibles that there's no way that \$250,000 is in that arena. You talking kiawe posts, field fencing, it's not, you don't do that to build an arena; you buy railings.

(Councilmember Carroll returned to the meeting at 9:37 a.m.)

MR. BORGE: For example, one of my friends, I know I pass the limit, one of my friends who just built two arenas with railings and cost him \$130,000; and, you talking bucking shoots, roping shoots, and everything. And, this is in 2015.

So, I want to know where all this money went. I'm sorry that I had to, but that arena is in the wrong place. Thank you very much.

COUNCILMEMBER VICTORINO: Thank you, Mr. Borge. Any questions for the testifier?

COUNCILMEMBER COCHRAN: Yea, Chair.

Mr. Borge.

COUNCILMEMBER VICTORINO: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, and good morning. Thank you, Mr. Borge, for being here. And I, I hear your frustration. And sounds like you have a lot of historical knowledge and background about the arena itself. And so some of the, you said you are speaking on behalf of some other people--

MR. BERGE: Who--

COUNCILMEMBER COCHRAN: --the other, and so the other people, did they submit?

MR. BERGE: --are, are cowboys--

COUNCILMEMBER COCHRAN: Yea.

MR. BERGE: --some of them are cowboys, they're team ropers, and a lot of them. I have, before this issue came up two years ago, before I went to see Councilwoman Gladys Baisa and Mike White, and we were talking about, then I went to see the Mayor, I had 100 signatures in less than couple days from a rodeo. And it, and it says we wanted to move Tom Morrow's Arena for, I forget how it was worded.

But, I do have 100 something signatures from ropers, young kids. You know, like when I see these canoe people, these young kids, that's the kind of community we need. Those are our, you know, that's the kind of facility we need.

I talked to a friend of mine yesterday, and on the Big Island, Panawea [sic], what do you call that place?

COUNCILMEMBER COCHRAN: Pana`ewa.

MR. BERGE: Pana`awea [sic] or something like, equestrian center. You know, those guys, they can go down there and rope or do whatever within the, there's no locks on the gates. They don't, they don't even pay.

The County comes in, maintains the arena. If something is broken, the County buys the plywood or whatever that's broken, and the community put it up. Just like when they have the weeds, and this guy was explaining to me. Now that's a community arena, you know, not certain people can use, you know.

When you put a lock on the gate, like, we have dog parks, we have baseball parks, swimming pools, I don't call somebody up and say, hey I'm going to go down to the baseball park and hit some balls today. You know, I just go down there cause it's a County facility, you know.



And, that's what I would like to see, if they want to pursue this arena. But, first I want, my concern is I want to know where the money went; that's, that's my concern right now. Cause, I'm a taxpayer and a lot of these guys who worked on this arena never got paid. It was all community base. And, I can, like I said, I can give you names and, but I don't want to put them on the hot seat. But, if anybody want to take me on the side, I'll call him on the phone and he will tell you.

COUNCILMEMBER COCHRAN: Thank, thank you, Mr. Borge.

MR. BERGE: Thank you very much.

COUNCILMEMBER COCHRAN: Thank you for your time.

MR. BERGE: Thank you.

COUNCILMEMBER VICTORINO: Thank you.

Any other? Seeing none, Mr. Clerk, our next testifier.

COUNTY CLERK: Marilyn McAteer testifying on Committee Report 16-38, to be followed by Rosemary Robbins.

MS. MARILYN MCATEER (testifying on Committee Report 16-38):

Aloha.

COUNCILMEMBER VICTORINO: Good morning.

MS MCATEER: I wish to publicly testify regarding the serious violations of the County Code and Charter and the public trust that have occurred with respect to the agreements with land developers. I'm having a hard time reading this, sorry, land developers to shift costs of their roadway infrastructure to the taxpayers, which have only been made visible to the citizens of Maui County through the valiant efforts of Chris Salem.

Coach Chris is a longtime volunteer in the West Maui youth programs, and has spent countless hours over the last few years teaching my grandchildren the valuable lessons of fair play and consequences of acting outside of the established rules.

I first became aware of this breach of public trust and misuse of public funds when I attended a DOT meeting last fall in Lahaina, wherein, after the meeting I asked Roz Baker about this issue. Her response was that the County was clearly, that the County has clearly been grossly negligent for a long time. After a lengthy conversation, her solution was the County should probably just admit their wrongdoings, and just erase the developer agreements. Or, she stated, a private citizen should just hire an attorney.

From what I learned from one of the parents of my grandchildren's teammates, Mr. Salem has reluctantly taken action against the Administration, realizing all too well he would come out under personal attacks as a whistleblower. From what I have learned by looking through the documents, the Department of the Corporate Counsel is now retain, retaliating against Coach Chris, a former employee of the Council, by filing a countersuit against him which explicitly seeks to silence Mr. Salem and to intimidate you, our elected Council officials, and your legislative assistants.

Are we defending the public interest by spending public funds to, public funds to defend the Administration's repeated acts of defiance without first launching an investigation, and explaining to the public the conclusions of your Members findings?

The fact that the Administration has, oops, I've got a lot more, shall I continue?

COUNCILMEMBER VICTORINO: You have thirty seconds, please continue.

MS. MCATEER: Sorry.

COUNCILMEMBER VICTORINO: You have thirty seconds, go ahead and continue.

MS. MCATEER: Okay. I, I ask the Members today to consider greatly what you, about rewarding these funds. Perhaps we should all take a hard look at the message we are sending to our children and our constituents by not joining the, by not joining the team of what is pono. Mahalo.

COUNCILMEMBER VICTORINO: Thank you. Any questions for the testifier?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, thank you, Ms. McAteer, is that how you?

MS. MCATEER: Yes.

COUNCILMEMBER COUCH: Okay, for being here and your testimony. I notice in your testimony you talked about without first launching an investigation.

MS. MCATEER: Yes.

COUNCILMEMBER COUCH: Are you aware that we did launch the investigation, and it was done in public here in around 2013.

MS. MCATEER: I did read, that's you know, I read about it in the Maui Time was that--

COUNCILMEMBER COUCH: Right.

MS. MCATEER: --I, you know, I wasn't present.

COUNCILMEMBER COUCH: We do, we do have the minutes, and you're able to watch it. But, this has been vetted and been investigated, and so we are where we are because we have gone through the complete investigation.

MS. MCATEER: Well, what about at this time, while you're trying to approve this?

COUNCILMEMBER VICTORINO: I'm not going to allow a debate.

MS. MCATEER: Oh excuse me, I'm sorry.

COUNCILMEMBER VICTORINO: Okay. We're just for point of clarification, ma'am.

MS. MCATEER: Sure.

COUNCILMEMBER VICTORINO: Thank you.

MS. MCATEER: Yes.

COUNCILMEMBER VICTORINO: Any other questions for the testifier?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Ms. McAteer for being, and we have your written, so--

MS. MCATEER: Thank you.

COUNCILMEMBER COCHRAN: --no need to try and have to cram this in your three minutes.

MS. MCATEER: Okay.

COUNCILMEMBER COCHRAN: And, but looking at, I was kind of, I guess taken aback as Senator Roz Baker comments.

MS. MCATEER: Yes.

COUNCILMEMBER COCHRAN: This, this is like quote, is this quoting her?

MS. MCATEER: Yes.

COUNCILMEMBER COCHRAN: She said these words?

MS. MCATEER: Yes.

COUNCILMEMBER COCHRAN: Okay.

MS. MCATEER: Yes.

COUNCILMEMBER COCHRAN: Thank you.

MS. MCATEER: And, there were other people present at the time.

COUNCILMEMBER COCHRAN: Okay. Thank you for your time. I know you came all the way from Lahaina.

MS. MCATEER: Yes.

COUNCILMEMBER VICTORINO: Thank you. Any other questions for the testifier? Thank you very much for being here, Ms. McAteer.

MS. MCATEER: Yes, thank you so much. Aloha.

COUNCILMEMBER VICTORINO: Mr. Clerk, the next, call up the next testifier.

COUNTY CLERK: Next testifier is Rosemary Robbins testifying on Committee Report 16-48 and Committee Report 16-38, to be followed by Annette Niles.

MS. ROSEMARY ROBBINS (testifying on Committee Reports 16-38 and 16-48):

Good morning, everybody. I too am delighted about the Upcountry kids at altitudes that most of our high school kids are not facing, to see that they are excelling in shoreline sports; way to go. Just wonderful. When I was teaching at Seabury in the 80's, they, the only thing that they had in terms of aquatics was the pool, which is now the sixth grade building. So, it's wonderful to see the evolution of all of this having happen. Congratulations to everybody involved.

Would like to just address item 16-48 on this morning's agenda. Lucienne has arrived in person as having been brought up for the Board of Water Supply, I thoroughly endorse that. Everything that Mike said about her, I agree with.

Also, on that same item, paragraph 8, talks about Lucy Feinberg being appointed to the Commission on Children and Youth for a term of five years upcoming. When she was the Director of Child and Family Services, the oldest of such entities in the Mid-Pacific here. I chaired the advisory committee for that. I thoroughly enjoyed working under her. She did her homework, she thought comprehensively, and just did wonderful stuff.

I became a guardian ad litem with the State Judiciary under her endorsement for that, and it's just been such an education ongoing. Wonderful, she wants everybody to learn and be their best. Hooray, hooray for both of them. Thank you. And, I have nothing against anybody else that's on here. I just don't know them so well.

Okay, so I would like us then to switch over to item 16-38. Is that okay?

COUNCILMEMBER VICTORINO: Okay.

MS. ROBBINS: Thank you. This sounds all too familiar; money, money, money going out to pay for questionable, and in some cases, judiciary adjudicated wrongdoing by employees in the County. Folks in the community are wondering who's paying for all of this. I think that should be said in a single sentence so that they will know.

I don't know what this issue is about. I'm talking about Civil Case 15-00384 LEK-KSC, for compensation for alleged wrongdoing. The process that was involved in this had executive session, so concerned citizens were blocked out of whatever the context of that was, including me. I'm not complaining about that, I'm acknowledging that I wasn't there when this material was being addressed. Can't miss what's happening with the money for this. If it sounds familiar that the County is hiring special legal attorneys, take that.

In order to go from what starts out to be a cost of, in this case, \$50,000 and is now up for a request today for 125 thou. We just went through all of this with the injection wells up on the West side. That one, also, went from a lower number which is, was a big number to the majority of people in this County, but went up to over \$2 million. Shouldn't be news to anybody listening that the majority of people in Maui County don't have that kind of money. It seems as though maybe they're being asked to cough it up for this, and not having a voice particularly in that.

So, I would ask you to be very careful. There are two terms in here that we keep hearing. One is that the money that the attorneys coming in are asking for. It reads very carefully not to exceed that amount. Then they exceed it by four and five, upping the amounts. Something's wrong with that. What's the pattern with that? And, now we're faced with that same pattern this morning on item 16-38, starting out at \$50,000 and now they're asking it to go up to \$125,000. There's a vivid pattern there and, and it's just, it's way out of whack of what should be taking care of the folks in the County.

So, I would ask you to be very, very careful about that. People in the County may not be mathematical geniuses, but they do understand what that kind of money is. It's out of their reach, are they being asked to pay for it is their question. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Ms. Robbins. Any questions for the testifier? Seeing none, thank you, Rosemary for being here.

MS. ROBBINS: You're welcome.

COUNCILMEMBER VICTORINO: Next testifier, Mr. Clerk.

COUNTY CLERK: Calling Annette Niles who will be testifying on Committee Report 16-48, to be followed by Albert Perez.

MS. ANNETTE NILES (testifying on Committee Report 16-48)

Good morning, Chair. Good morning, Council. I'm here in support of Lucienne de Naie on the Commission for the Water Department. You know, I have the honor of knowing this lady for a couple of years now. And a very knowledgeable one at the Water. She knows ins and outs of every well, every private sector, everything there is to know about the water; maybe more than the Water Department knows about itself.

So, I would like, not because she's on any group or what you guy's going to, you know, pin her for it. But, you know what, this lady has no water. She lives on catchment, and you know what, she's, she's just a brilliant lady, you know. And, everything about her, you know, she could literally run that department. So, for that reason I'm in, please support Lucienne, please. Thank you.

COUNCILMEMBER VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you very much, Ms. Niles.

Next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is Albert Perez testifying on Committee Report 16-48, to be followed by Lucienne de Naie.

MR. ALBERT PEREZ (testifying on Committee Report 16-48):

Good morning, Chair.

COUNCILMEMBER VICTORINO: Good morning.

MR. PEREZ: Good morning, Councilmembers. Albert Perez, I'm testifying as an individual today. And, I'm testifying on item 16-48. Lucienne de Naie would be an asset to the Board of Water Supply. She has boundless energy, and she does tons of research. So, she knows her stuff.

She's well-known as having a wealth of knowledge regarding water issues and provides a historical context for those water issues, even for people at the Department of Water Supply.

I was thinking about this, and I realized that one of the reasons that she is such a valuable contributor to the organizations that she participates with is that she insists on the facts, even the, when those facts do not support her own position on an issue. And, I think that that's really valuable for anybody. She's highly ethical. And, if any conflict of interest were ever to arise, she would be the first to raise the issue.

I believe that the Board of Water Supply would be stronger with Lucienne de Naie, and I strongly support her appointment. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Perez. Any other, any questions for clarification for the testifier? Seeing none, thank you, sir.

MR. PEREZ: Thank you.

COUNCILMEMBER VICTORINO: Next testifier, Mr. Clerk.

COUNTY CLERK: Next testifier is Lucienne de Naie testifying on Committee Report 16-42.

MS. LUCIENNE DE NAIE (testifying on Committee Report 16-42):

Good morning, everyone. This is Lucienne de Naie, and I'm testifying as a private individual, although, I think many, many groups that I'm affiliated with would support you adopting the resolution to urge passage of the State legislation to assist farmers and ranchers on Molokai in complying with the FDA food safety. I know our representative from District 13, Lynn DeCoite, has been working on this.

Our Federal government has good intentions in making sure our food is safe. I think we all support that. But, it's the one-size fit all sometimes as we've seen here in Maui. And, so we really need to give that boost to our farmers so that they can compete, because, you know, they are living in a twenty-first century economy, and a lot of them have been doing things with their families a certain way. And, you know, it's going to take money to invest to get up to speed with these procedures.

So, I, I'm sure this is a no-brainer, that everybody wants to support it. But I know how much it means to the folks on Molokai, also folks out in Hana. Some of my friends went through hell to, you know, get their honey permit as legal. So, let's, let's give the, let's give the Legislature our support. Thank you for your consideration. Aloha.

COUNCILMEMBER VICTORINO: Thank you. Any questions for clarification from the testifier? Seeing none, thank you, Ms. de Naie.

Mr. Clerk, anymore testifiers?

COUNTY CLERK: Mr. Chair, there's no further individuals.

COUNCILMEMBER VICTORINO: I think we have one more.

Should we check with our District Office to see anybody wants to testify while we wait for the other testifier, Mr. Clerk?

COUNTY CLERK: Yes, Mr. Chair.

Hana Office, are there any additional testifiers?



MS. LONO: The Hana Office has no one waiting to testify.

COUNTY CLERK: Thank you.

Molokai Office, are there any additional testifiers?

MS. ALCON: There's no one here on Molokai waiting to testify.

COUNTY CLERK: Thank you.

COUNCILMEMBER VICTORINO: Okay, and we know our Lanai Office, unfortunately, tonight is not connected.

Now, Mr. Clerk, I'm going to ask, okay, let, let me see this first. Hold on please.

Okay. I guess in that respect, yea. Mr. Pat Borge, you are speaking on behalf of 16-48, number 10. Thank you. Go ahead, Mr. Borge.

MR. PAT BORGE (testifying on Committee Report 16-48):

Okay, Mr. Chair. First, I can help you out with your cold. You take one horse blanket, and you put um in the hot water with some eucalyptus, take em all out.

COUNCILMEMBER VICTORINO: That could kill everything eh?

MR. BORGE: But, anyway.

COUNCILMEMBER VICTORINO: Thank you--

MR. BORGE: But, anyway, I'm here to support Lucienne. I mean, she's a great person. I've known her for many, many years. Her heart is in the right place. She really loves the island of Maui. And, I don't think the Water Department can go wrong with somebody like Lucienne sitting on the board.

I just want to let you guys know that, that I support her in every way. Thank you very much.

COUNCILMEMBER VICTORINO: Thank you. Any questions for the testifier? Seeing none, do we have any further testifiers in the gallery? Does anyone wish, who has not given testimony, wish to come forward and then you can sign up later? Seeing

none, and knowing that our District Offices had no one waiting to testify, with no objections, I will close public testimony for today's meeting.

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, we are in receipt of written testimony as well.

COUNCILMEMBER VICTORINO: With no objection, I'd like to enter that into the records.

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER VICTORINO: Thank you.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY  
RECEIVED FROM THE FOLLOWING INDIVIDUALS WERE  
MADE A PART OF THE RECORD OF THIS MEETING:

1. Susan Guille;
2. Sharon Freitas;
3. Marilyn McAteer;
4. Barbara Barry;
5. Sandi Ioakimi;
6. Joseph Kohn;
7. Geoffrey T. Moore;
8. Patricia Gardner;
9. Patricia and Jefferson Stillwell;
10. Debra Greene;
11. Vincent Mina, Hawaii Farmers Union United;
12. Pamela Palencia;
13. Bonnie Marsh;
14. Bonnie Newman;
15. Paula Phillips;
16. Sunny Savage-Luskin;
17. Simon Russell, Hawaii Farmers Union United;
18. Tulsi Greenlee; and
19. Joy Brann.

COUNCILMEMBER VICTORINO: Go ahead, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with minutes.

## MINUTES

The minutes of the Council of the County of Maui's regular meeting of February 5, 2016, was presented at this time.

CHAIR WHITE: Mr. Guzman

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO APPROVE THE REGULAR MINUTES OF  
FEBRUARY 5, 2016.

COUNCILMEMBER COUCH:

SECOND.

COUNCILMEMBER VICTORINO: It's been moved by Mr. Guzman, seconded by Mr. Couch.

Mr. Guzman, any comments?

VICE-CHAIR GUZMAN: Nothing further. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you. Any other discussion? Seeing none, all those in favor, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", one "excused", no "noes".

Moving on, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with committee reports.

### COMMITTEE REPORTS

#### COMMITTEE REPORT

NO. 16-37 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 29 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF FINANCE, COUNTYWIDE COSTS; DEPARTMENT OF PARKS AND RECREATION, PARK MAINTENANCE PROGRAM, WAIEHU GOLF COURSE PROGRAM - GOLF FUND; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COUNCILMEMBER VICTORINO: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 16-37 AND ITS RECOMMENDATIONS BE ADOPTED.

COUNCILMEMBER COUCH:

SECOND.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Hokama, and seconded by Mr. Couch, to, okay, I'm sorry.

Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: Nothing further.

COUNCILMEMBER VICTORINO: Any other discussion? Seeing none, all those in favor, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: So, let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NO. 29 (2016).

COMMITTEE REPORT

NO. 16-38 - COMMITTEE OF THE WHOLE:

Recommending the following:

1. That Resolution 16-34, entitled "AUTHORIZING AN INCREASE IN COMPENSATION RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA & GODA, LLP, IN CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL., CIVIL NO. CV 15-00384 LEK-KSC, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII," be ADOPTED;
2. That County Communication 15-219, from Council Chair Mike White, be FILED; and
3. That County Communication 15-257, from the Department of the Corporation Counsel, be FILED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-38.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Guzman, and seconded by  
Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on November 6, 2015, to  
consider a, a request by the Department of Corporation Counsel to provide a status  
update in this case.

Your Committee also met on February 5, 2016, and March 4, 2016, to consider a  
request to authorize 75,000 in additional compensation for the Kobayashi Sugita &  
Goda, LLP as special counsel for the individual Defendants in this case, for a total  
compensation not to exceed 125,000. According to the proposed resolution, the  
additional compensation is for discovery, depositions, pretrial, and motions.

Your Committee notes the County has removed the case to Federal Court. At your  
Committee's meeting, your Committee was informed by the Deputy Corporation  
Counsel that the initial pleadings had been filed in the case, with the motions pending  
before Judge Leslie Kobayashi. Special counsel had filed a motion to dismiss most  
claims against the, the individual Defendants. The County had filed a claim alleging  
abuse of process had countered.

Your Committee voted 8-0 to recommend adoption of the proposed resolution, and  
the filing of County Communications 15-219 and 15-257.

Chair, on March 15, this week, 2016, Judge Kobayashi entered an order dismissing  
the entirety of the complaint. At this point, this is information that the Committee of  
the Whole did not have when it was conducting its Committee review on this. And  
so, I would like to ask the Clerk to pass out the dismissal to the Members.

COUNCILMEMBER VICTORINO: Mr. Clerk, please.

VICE-CHAIR GUZMAN: Yes. And, as that's going on, I'd also like to request that Deputy Corporation Counsel Brian Bilberry please provide an update to the Council on the case and explain whether the, whether the proposed resolution authorizing additional compensation for special counsel is still needed notwithstanding this dismissal of the case.

COUNCILMEMBER VICTORINO: Okay, hang on a second.

Would we require a few minutes to review? Okay, why don't we take a five minute recess and let everyone take a moment, if you don't mind Mr. Guzman, to review what we've just received. And then we'll, five minutes enough, gang, five?

Okay, let's go five minutes, and then we'll reconvene. I'll take a five minute recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:04 A.M., AND WAS RECONVENED AT 10:10 A.M., WITH ALL MEMBERS PRESENT, EXCEPT CHAIR WHITE, EXCUSED.)

COUNCILMEMBER VICTORINO: The meeting of the regular County Council meeting of March 18, 2016, will reconvene.

Mr. Bilberry, I will turn the floor over to you.

DEPUTY CORPORATION COUNSEL BRIAN BILBERRY: Thank you, Chair. Good morning, Members. As Mr., or as Chairman Guzman had indicated during his statement, the, there was a motion to dismiss pending filed by special counsel hired in this case. And, as Mr. Chairman, or Councilmember Guzman also noted the, on March 15, the Federal Circuit, or the Federal District Court--

COUNCILMEMBER VICTORINO: Mr. Bilberry, can you go closer to the mic?

DEPUTY CORPORATION COUNSEL: Yes, I'm sorry about that.

COUNCILMEMBER VICTORINO: Yea, okay please. Thank you.

DEPUTY CORPORATION COUNSEL: A Federal District Court Judge Leslie Kobayashi dismissed the case without prejudice. I'm just going to read to you from the order because I think that that summarizes what Judge Kobayashi's perspective was on this case.

COUNCILMEMBER VICTORINO: Okay, Mr. Bilberry go ahead.

DEPUTY CORPORATION COUNSEL: And I think is a, is an accurate assessment of the case. And, I'm on page 12 of the copy of the order that I have. You've been provided a copy which is in a different format than what I have. But, let me see if I can find for you quickly where I am in the order that you have.

COUNCILMEMBER VICTORINO: Where would we find that, Mr. Bilberry on our? Page six or page seven?

DEPUTY CORPORATION COUNSEL: No, it's, give me just a second here.

COUNCILMEMBER VICTORINO: Surely, surely. Hang on gang. We'll give Mr. Bilberry a moment to find.

DEPUTY CORPORATION COUNSEL: Yea, the format is, is different. Here's what I'm going to do. I'm just going to read from you the copy of the order that I have, which we printed off from Westlaw online, I'm not sure where this copy that, or rather which we printed off from the District Court's docket. The copy you have is a Westlaw copy of the order which seems to suggest that this is now a reported decision. But in any--

COUNCILMEMBER VICTORINO: Mr. Bilberry, would you allow us, would you guys want copies of that?

DEPUTY CORPORATION COUNSEL: I have a copy--

COUNCILMEMBER VICTORINO: No not necessary. Okay, no never mind.

DEPUTY CORPORATION COUNSEL: Okay.

COUNCILMEMBER VICTORINO: I just wanted to see if they wanted copies.

DEPUTY CORPORATION COUNSEL: Sure.

COUNCILMEMBER VICTORINO: Go ahead, Mr. Bilberry.

DEPUTY CORPORATION COUNSEL: All right, in, in pertinent part, the Court Judge Kobayashi found "The Complaint in the instant matter does not comply with Rule 8." I'm quoting from the opinion, "and is an impermissible 'shotgun pleading'." And she goes on to write "Shotgun pleadings are pleadings that overwhelm defendants with an unclear mass of allegations and make it difficult or impossible for defendants to make informed responses to plaintiff's allegations. They are unacceptable."



"Plaintiff explains", plaintiff being Mr. Salem, that "what he believes are the wrongful actions of the Maui County officials and their associates, and then he tries to connect these allegations to legal fees from a separate case, a lien on his property, and a subsequent foreclosure. Plaintiff does not explain the legal fees or the foreclosure, nor does he establish a causal nexus between the alleged mismanagement by Maui County of the Three Lots or Less program and that harm that he allegedly suffered."

"Moreover, the 133-page Complaint, with its 604 numbered paragraphs and 131 pages of declarations and exhibits, is meandering, repetitive, confusing, and, at times incomprehensible. It consists of a seemingly endless series of statements that Plaintiff insists trace the relevant history of the instant lawsuit. After reading the Complaint multiple times, however, the Court is still unsure of: (1) what many of the claims are; and (2) the grounds upon which many of the claims are based."

The court went on to dismiss the complaint without prejudice. She's giving him leave to amend. Whether he will be able to do that in a fashion that the court will find acceptable remains to be seen. So, the case is not over unfortunately. But, the judge has dismissed this complaint in its entirety. And, as to three claims of the complaint, she has dismissed them with prejudice, noting that the criminal statutes under which Mr. Salem has tried to make allegations, he has no standing to make claims under. So, they've been dismissed with prejudice. And, those were allegations of Honest Services Fraud and Perjury, and Obstruction of Justice. Those claims had been dismissed with prejudice.

So, that's the status of the case at this point. I have conferred with special counsel. We have had some strategy discussion as to how this case will proceed. I don't think I need to get into that here, because at this point the ball is squarely in Mr. Salem's court. He's going to have to start drafting from the ground up and see if he can figure out what his claims are. We're not confident that he will ultimately be able to. But, the case remains open, and he's going to have an opportunity to do that.

So, we would request that the resolution for the additional compensation for special counsel be passed in the event that this case, he's able to rehabilitate his complaint, and the case moves forward. But again, we, we have serious questions as to whether he's ultimately going to be able to do that.

COUNCILMEMBER VICTORINO: Thank you.

DEPUTY CORPORATION COUNSEL: I'm happy to take any questions.

COUNCILMEMBER VICTORINO: Okay, thank you, Mr. Bilberry. I really do appreciate your clarification to make it simple.

And, before we continue, I'll take a point of personal privilege. The final score is 77-66, the University of Hawaii has won.

Okay, now let's get back to work. I apologize. Sorry, Mr. Bilberry.

DEPUTY CORPORATION COUNSEL: No, no that's okay.

COUNCILMEMBER VICTORINO: I mean, that's almost more important than your news.

COUNCILMEMBER BAISA: We have priorities.

COUNCILMEMBER VICTORINO: I'm sorry, priorities, they call that.

Mr. Guzman, go right ahead. I'm sorry.

VICE-CHAIR GUZMAN: All right, thank you Chair, for, and thank you, Mr. Bilberry for both the updates.

On the, I guess to lay, lay it very clearly for the Members and, and put it more in a simple terminology is that before us is a resolution asking for additional monies for special counsel on a case that we have received an order of dismissal. And, so I believe Mr. Bilberry had mentioned that a, a motion for leave, or I guess the, the Judge had granted leave to amend the complaint on, for the plaintiffs side. And, there is uncertain whether at this juncture the plaintiff will, you know, immediately put it altogether, because it sounds as though it's very long-winded on the initial complaint, whether they can take the time in a, in a sufficient manner to refile.

So, my question to Mr. Bilberry is, do you have an idea or estimation as to, or an inclination that the plaintiffs will refile? Or this is money that's going to be pending or, or it, it's going to go away, you know, this case?

COUNCILMEMBER VICTORINO: Mr. Bilberry.

DEPUTY CORPORATION COUNSEL: Yea, you know what, forgive me for forgetting to mention that he, he already has a motion to file an amended complaint on file, which he had filed previous to this order coming out. And basically, the motion he has submitted or the, the amended, the proposed amended complaint he submitted with that motion is exactly the same as the complaint that was just dismissed, but he just added more allegations to it. So, we, we do have to oppose that.

If he doesn't withdraw it, he will be asked to withdraw it because obviously it's going to suffer the same fate as the complaint that just got dismissed. But, I can't give you any predications as to how long the litigation might go on. I mean, he's been given an opportunity to, opportunity to amend his complaint, and he may be able to pull a rabbit out of a hat and do that. I think it's a long shot.

Ultimately, if the court accepts a complaint from him, we will proceed in the manner that which we have discussed previously. But, I think, excuse me. Yea, I think it's sometime in the latter part of April, the hearing on his current motion.

VICE-CHAIR GUZMAN: Okay.

DEPUTY CORPORATION COUNSEL: But, to answer your question, I don't know if I'm answering your question, I really can't tell you. I understand that there are some, they're having some difficulties which don't have to do with the substance of this case on that end, which I won't get into here. But, we fully anticipate he's going to persist. I mean, he, he's been around for a long time. This is a, one in a string of lawsuits that we're aware of that center around this same issue. So, we don't think this is just going to go away.

And, he has the option to appeal as the reported decision now which you have been passed out, so he can appeal it as well which is something I would anticipate given the energy, the history, and the investment that has been put into this case by the plaintiff.

VICE-CHAIR GUZMAN: So there, there is a motion pending that is going to be heard in April? The--

DEPUTY CORPORATION COUNSEL: Correct.

VICE-CHAIR GUZMAN: --for, for an amended complaint which is basically the same?

DEPUTY CORPORATION COUNSEL: The same thing.

VICE-CHAIR GUZMAN: Okay, okay. So it--

DEPUTY CORPORATION COUNSEL: Yea, there's some more allegations in it.

VICE-CHAIR GUZMAN: All right, okay.

DEPUTY CORPORATION COUNSEL: But, it's essentially the same. It'll suffer the same analysis that Judge Kobayashi gave the complaint in the order I just read you.

VICE-CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: So, if I may, Mr. Guzman, to sum it up and, and, and we will allow more questions, but I don't think we need to get into more questions. If I'm correct with what I'm hearing, from a laymen's term, that we are in good footing right now, but the case is not over. And, that we still have to be ready should any of these motions go forward by the, by Mr. Salem's attorneys. Is that pretty much what I'm hearing from you?

DEPUTY CORPORATION COUNSEL: I think that's fair.

COUNCILMEMBER VICTORINO: That's a fair evaluation of where we at?

DEPUTY CORPORATION COUNSEL: Right. The ball's in his court.

COUNCILMEMBER VICTORINO: It's in his court.

DEPUTY CORPORATION COUNSEL: Yea.

COUNCILMEMBER VICTORINO: Unfortunately, it's still a live ball.

DEPUTY CORPORATION COUNSEL: Right.

COUNCILMEMBER VICTORINO: The game has not ended. Just like what this game has ended, but that game has not ended.

DEPUTY CORPORATION COUNSEL: Exactly.

COUNCILMEMBER VICTORINO: So, with that being said, if you have specific questions you want to ask, I, I'll go forward but I would really like to call for the question, unless there's something else really burning in anybody's mind.

Seeing none, then with no objections, I will call for the question. All those in favor, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Thank you, Mr. Bilberry for being here.

DEPUTY CORPORATION COUNSEL: Thank you, Mr. Chair. Members, thank you very much.

COUNCILMEMBER VICTORINO: Mr. Clerk, please proceed.

COUNTY CLERK: Mr. Chair, for the record, RESOLUTION 16-34.

COMMITTEE REPORT

NO. 16-39 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 16-35, entitled "AUTHORIZING SETTLEMENT OF U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION V. COUNTY OF MAUI POLICE DEPARTMENT, ET AL., CIVIL NO. 13-00698 LEK KSC," be ADOPTED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE COMMITTEE RECOMMENDATIONS  
IN REPORT 16-39.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It's been moved by Mr. Guzman, and seconded by Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on February 5, 2016, and March 4, 2016, to consider a request for settlement authority in this case.

The complaint alleges Lars Sandstrom applied for the employment with the Department of Police, but was not hired due to age discrimination, and that the County violated the Age Discrimination in Employment Act 1967, as amended. The purpose of the proposed resolution is to authorize the Department of Corporation Counsel to settle the case.

A Deputy Corporation Counsel provided a brief overview of the case. It was noted that in 2009, Mr. Sandstrom applied for a job with the Department of Police and was not hired. Mr. Sandstrom alleged the Department did not hire him because of his age. Mr. Sandstrom was 45 years of age and at that time when he applied. The Equal Employment Opportunity Commission then filed a lawsuit on behalf of Mr. Sandstrom.

Following an executive meeting, your Committee voted 8-0 to recommend adoption of the proposed resolution.

I ask for the Members support of my motion. Thank you, Chair.

COUNCILMEMBER VICTORINO: Any further discussion or questions from the Members? So, with no, no discussion, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 16-35.

COMMITTEE REPORT

NO. 16-40 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 16-36, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30154560286-0001 OF FIRST INSURANCE COMPANY OF HAWAII, LTD., ON BEHALF OF ITS INSURED, ZITA MENDOZA MORALES" be ADOPTED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-40.

COUNCILMEMBER CRIVELLO:

SECOND.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Guzman, and seconded by Ms. Crivello, to accept the Committee Report No. 16-40.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on March 4, 2016, to consider the request for settlement authority in this case.

The proposed resolution would authorize the Department of Corporation Counsel to settle the claim of Zita Mendoza Morales' insurer, First, First Insurance Company of Hawaii, Ltd., on behalf of its insured, for the amount of \$21,250.05. The claim alleges damages to Ms. Morales' vehicle resulting from a collision with a Department of Police vehicle on Kaahumanu Avenue, Kahului, Maui, Hawaii, on August 8, 2015.

The Deputy Corporation Counsel provided a brief overview of this case. And, it was noted that a police officer ran a red light and struck Ms. Morales' vehicle, causing damages. She also said that the County acknowledges the responsibility of the, the accident, and recommended settlement amount to represent the total paid by the insurer and the deductible paid by Ms. Morales.

The, we did hear from the Department of the, the Police Department as to the Chief did mention that there are provisions that are in place, that if accidents occur with officers, they go through re-training, driver's ed.

So, based on the information received and, and the recommendations of the Department, your Committee voted 8-0 to recommend adoption of the proposed resolution.

I ask that the Members support my motion. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Guzman. Any questions or discussion? Seeing none, seeing none, all those in favor of, of passing Committee Report 16-40, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 16-36.

COMMITTEE REPORT

NO. 16-41 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 16-37, entitled "INDEMNIFYING MYRNA SABAS-RYDER, ANSELM YAZAKI, AND ALY MIYASHIRO IN JASON GRIEGO AND JAMES SANCHEZ V. COUNTY OF MAUI, ET AL., CIVIL NO. 15-00122 SOM BMK," be ADOPTED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-41.



COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Guzman, and seconded by Ms. Crivello, to accept Committee Report No. 16-41.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on March 4, 2016, to consider a request to authorize the indemnification of Myrna Sabas-Ryder, and Anselm Yazaki, and Al Yamashiro *[sic]*, employees of the Department of Police in this case.

Your Committee notes that the complaint alleges Plaintiffs Jason Griego and James Sanchez were on Maui under private contract to provide personal security services for a New Mexico businessman David Maniatis, and were at an event, or at relevant times "qualified law enforcement officers" that were permitted to carry concealed firearms. The complaint further alleges that on, on July 14, 2013, the Plaintiffs were unreasonably seized and detained, and physically and mentally assaulted, and their private hotel rooms were unreasonably searched and their property seized from them.

The complaint further alleges that the Plaintiffs suffered violations of their Constitutional rights as a result of actions by the County employee, employees. Plaintiffs seek general, special, and punitive damages, and reimbursement of costs and attorneys' fees.

Your Committee further notes that the Police Commission reviewed the matter pursuant to Section 52D-8 and HRS, and determined that these employees are entitled to legal representation.

A Deputy Corporation Counsel provided a brief overview of the case, and advised your Committee that the Department had reviewed the, the documents and other discovery to date and, on that basis, had determined that the employees were acting in the course and scope of employment and in good faith. The Department, therefore, recommended the employees be indemnified.

Based on the information received and the recommendations of the Department, your Committee voted 8-0 to recommend adoption of the proposed resolution.

I ask for the Members support of this motion. Thank you.

COUNCILMEMBER VICTORINO: Thank you.

Any questions or discussion? Seeing none, all those in favor of Committee Report 16-41, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 16-37.

COMMITTEE REPORT

NO. 16-42 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND  
RECREATION COMMITTEE:

Recommending the following:

1. That Resolution 16-38, entitled "URGING THE STATE LEGISLATURE TO SUPPORT A BILL TO PROVIDE FOR COST REIMBURSEMENT TO MOLOKAI FARMERS AND RANCHERS TO COMPLY WITH FOOD SAFETY MODERNIZATION ACT REQUIREMENTS," be ADOPTED; and
2. That the Miscellaneous Communication, from the County Clerk, relating to the matter of the Molokai Diversified Agricultural Revolving Loan Program, be FILED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-42.

COUNCILMEMBER COCHRAN:

AND, MR. CHAIR, I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Guzman, and seconded by Ms. Cochran, to accept the report, Committee Report No. 16-42.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your EAR Committee met on August 18, 2015, and February 2, 2015 *[sic]*, to consider a proposed resolution to urge passage of State legislation to assist farmers and ranchers on Molokai in complying with FDA Food Safety Modernization Act, which Congress passed in 2010 and was signed into law by President Barack Obama on January 4, 2011.

Your Committee noted that State Representative Lynn DeCoite introduced House Bill 2657 (2016) at the request of, of myself and your Committee. House Bill 2657 (2016) would amend Act 387 (1988) and provide loans and monies to be appropriated from the revolving loan program to Molokai farmers and ranchers to reimburse costs of FDA Food Safety Modernization Act compliance.

The bill has passed out of the House, and is now before the Senate.

The Budget Director advised your Committee that the revolving loan program has a available balance of \$244,747 in it. Chair, this is a result of examining this fund, the Molokai agricultural fund loan, loan program in our budget and was brought to the EAR Committee to, to resolve the issue as to what to do with those funds, considering the fact that there is no longer a Molokai Advisory Committee for the loan program and other circumstances that had evolved over time.

There was a balance that had not been used, and so therefore the only resolution to do this was to go through the State and have an amendment made so that those monies can be appropriated to Molokai for the purpose of responding to the FDA Food Safety Modernization Act compliances so that farmers and ranchers can be reimbursed for their cost to comply with that Act.

I would like to also acknowledge the assistance of Councilmember Stacy Crivello. We both, and including the Councilmembers, worked very hard and diligently in getting this forward to the State. And, lobbied for it to be passed out from the House to the Senate now.

So, thank you, Chair. And, I respectfully ask the Members for full support for, of the recommendations.

COUNCILMEMBER VICTORINO: Thank you very much. Any further discussion?

Yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I'd like to just add my, my thank you to Mr. Guzman, and especially his staff who helped to sort of help the Representatives' staff as to what we're, we were really looking at. Prior to this, I've had several meetings with Representative DeCoite to see how we can come up, so that we can utilize the funds that was sitting in our coffers since the 1980's.

So, I think this is good news that the measure has completely passed through. And, sometimes it's interesting how our Legislature is so far removed from what, what goes on, on the County level as far as trying to explain to them we're not asking for appropriations. We are just saying that, you know, change it so that we can utilize what we have. And, and it finally got through.

But, I'd like to especially recognize our Analyst Sharon Brooks for her commitment to follow through with this, and working with me and myself, and State Representative DeCoite to, to get this through a cost reimbursement process for our farmers and, and ranchers. And, this is something perhaps that we know that we're going to need this kind of support for our farmers on Maui as well. So, it's something that we can follow and see how this works out. Thank you.

COUNCILMEMBER VICTORINO: Thank you. And, I was there the other day, and that issue was brought up by Lynn and couple other House Members, House of Representative Members, and I fully support. And I told them straight, this is not a new appropriation. But, some of them really believe it's a new appropriation. They just don't see the trees from the forest. But, that's unfortunate, but you know, hopefully they, they'll have, will have positive results, not only for Molokai but our future farmers here in Maui County.

Any other discussion? Seeing none, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-38.

COMMITTEE REPORT

NO. 16-43 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND  
RECREATION COMMITTEE:

Recommending the following:

1. That Resolution 16-39, entitled "APPROVING AND AUTHORIZING THE EXECUTION OF A PARK ASSESSMENT AGREEMENT FOR THE KAMALANI SUBDIVISION, PURSUANT TO SECTION 18.16.320, MAUI COUNTY CODE," be ADOPTED; and
2. That County Communication 16-5, from the Director of Parks and Recreation, be FILED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-43.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: It has been moved by Mr. Guzman, and seconded by Mr. Couch to accept the Committee Report No. 16-43.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on February 16, 2016, to consider a proposed resolution to approve the Park Assessment Agreement for the Kamalani Subdivision in Kihei, Maui.

The developer, the Kamalani Ventures LLC, has agreed to satisfy the conditions of Section 18.16.320 of the Maui County Code, by providing 6.5 acres of land and improvements for parks and playground purposes, as a condition of the subdivision approval of the development of 94,000, oh no wait, sorry, 94.352 acres. The subdivision is planned for approximately 170 residential workforce housing units and approximately 460 residential market housing units, including both single-family and multifamily structures.

The developer will provide two pocket parks comprising of a total of 1 acre and 5.5 acres and improvements to expand the, the County's Hale Piilani Park, which abuts the Kamalani Subdivision.

I respectfully ask the Council's support of the Committee's recommendation. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Guzman.

Any further comments or questions? Seeing none, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION NO. 16-39.

COMMITTEE REPORT

NO. 16-44 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Resolution 16-40, entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO TOM MORROW EQUESTRIAN ARENA," be ADOPTED; and
2. That County Communication 16-6, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-44.

COUNCILMEMBER COCHRAN:

MR. CHAIR, I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Guzman, and seconded by Ms. Cochran to accept the Committee Report No. 16-44.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your EAR Committee met on January 26, 2016, to consider a proposed resolution to authorize the Tom Morrow Equestrian Arena, a non-profit organization, to lease 5.7 acres of County real property at the Fourth Marine Division Memorial Park in Haiku, Maui, Hawaii, for the operations of

the community horseback-riding facility for a nominal rental fee of \$1 through June 30, 2035.

Pursuant to Section 3.36.090 of the Maui County Code, the Council may authorize the grant of a lease of real property at less than fair market value by resolution.

An officer of the organization informed your Committee that the facility is open daily and available to any rider for a fee of \$16 per month. The facility is available for organizations and insured groups to hold events.

Councilmember Elle Cochran and I had the privilege and opportunity to conduct a, a site visit, and found the, the arena to be well-maintained. Although issues were brought up in the Committee as to drainage and other users to have more access, I believe that there, that discussion is one step forward in making that happen.

I know that the, the monies need to be looked at to, I guess, allow, allow the, the arena to have more sand. There is the base of the, of the, of the surface is what's very slippery and, and not contoured for drainage, so that needs to be reexamined at that time.

But I respectfully, at this point, request that the Members support this Committee Report. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Guzman.

Other questions or other discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Mr. Guzman for your recap as to how we got here today. And, this particular item, it's, it's kind of a learning, work in progress kind of thing, getting more and more information via the community as this item works through the process. And, you know, there's a lot of questions now. There's more questions than when we first started, and especially the use of the appropriation that was given to this, to this organization to begin with. So, I would like to see further investigation into that, or just an audit of some kind.

But, you know, I hear the concerns, physically, maybe not the appropriate place to begin with, what have you. But, I also see that there is a good size part of this community that does utilize it in other manners. So, and I take it that there's some people in the community looking for an alternate spot in order to accommodate the type of, the type of horse discipline such as roping and rodeo style riding in another



more appropriate location on this island. So, I'm confident that we can look into how monies have been used in the past, and vet that through. But, keep this arena open for the users that can use it safely today, and then look for an alternate spot for the other type of ridership that is more appropriate.

So, at this point, I will be in support to move this out. I just feel there could be part of a loss if we do not for that, that part of this horse community that is already utilizing it. So, with that, but definitely will be following up in an alternate, alternate solution for the issues and concerns that were brought up, especially by Mr. Borge today. So, thank you very much, Chair.

COUNCILMEMBER VICTORINO: Thank you.

Any, yes, Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I too have some concerns based on the testimony we heard today. So, I will be supporting this, but with reservations and hope that we do get an audit and a potential alternate location. So, thank you.

COUNCILMEMBER VICTORINO: Well, I think Mr. Guzman is committed to do that, aren't you Mr. Guzman.

VICE-CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: Thank you. So, I, I feel very confident we can pass this out and find out exactly how the monies were spent and in what areas. And, and the community can rest assured that equestrian arena will continue to be open until we get the answers. And, then once we get the answers then we'll really take a hard look at if these answers are not appropriate then where we need to move next.

So, you can tell Sharon that we're moving ahead, but you know, there is much more to be done.

Okay, any other discussion or questions? Seeing none, all those in favor of approving the Committee Report 16-44, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 16-40.

COMMITTEE REPORT

NO. 16-45 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE AND RECREATION COMMITTEE:

Recommending the following:

1. That Resolution 16-41, entitled "AUTHORIZING THE ACQUISITION OF THE WAIAKOA GYM FROM THE MAUI FEDERAL CREDIT UNION," be ADOPTED; and
2. That County Communication 16-22, from the Director of Parks and Recreation, be FILED.

COUNCILMEMBER VICTORINO: Mr. Guzman. Today is your day, isn't it?

COUNCILMEMBER COCHRAN: I know.

COUNCILMEMBER VICTORINO: Whoa, nobody else has said anything but you. Go ahead. And except, and Mr. Hokama, sorry. Go ahead.

VICE-CHAIR GUZMAN: Thank you. Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-45.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Guzman, and seconded by Ms. Baisa, to accept Committee Report No. 16-45.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your EAR Committee met on February 16, 2016, to consider a proposed resolution to authorize the County's purchase for the Waiakoa Gym, located at 4600 Lower Kula Road, Kula, Maui, Hawaii, from Maui Federal Credit Union for 1.2 million. The gym is currently leased by the County.

The Director of Parks and Recreation informed your Committee that the gym consists, that we're, the subject matter is basically enclosed, wooden structure with a basketball and volleyball court, is the only public gym serving the Kula area. And, he also added that the, it's fairly weathered and has been heavily used by the public within the last few years, more than a few years. The Director also stated that the Department plans to do an assessment and do repairs on the building, including work on the floors, roofing, backboards, and bleachers, in Fiscal Years 2017 and 2018.

Your Committee also notes that Section 3.44.015(B) of the Maui County Code requires that the authorization of the Council be by resolution for the purchase of any real property with the purchase price exceeding 100,000. Your Committee also notes that funds for the purchase were appropriated in Fiscal Year 2016 during the budget.

I respectfully ask the Council for full support of the Committee's recommendations. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much. I'll be brief cause we've already discussed this. But, I would again like to thank Council for the support, and Administration putting the money in the budget in the first place. And, it sounds like this, everything I've heard and everything I know, this is a very prized asset Upcountry. And, I think it will be very helpful for our community, as well as for all of Maui that uses it. So, thank you very much.

COUNCILMEMBER VICTORINO: Thank you, Ms. Baisa.

Any other discussion?

I'll add real quickly too that the Waiakoa Gym is better known as the Kula Gym.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER VICTORINO: I think, you know, some people might be, where the heck is Waiakoa? It's actually the Kula Gym, but that's the legal entity's name. And, I've had from very young days through some years back played basketball up there. And, it's one of those ancient gyms that really brings back a lot of memories. When you play in there, the wall is so close that if you drive too hard you end up in the wall. So, I rather enjoy it, you know. I rather enjoy it. So, I think this will be a great asset, not only for Upcountry but for the County of Maui.

So, without further ado, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 16-41.

COMMITTEE REPORT

NO. 16-46 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND  
RECREATION COMMITTEE:

Recommending the following:

1. That Bill 30 (2016), entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 13.04, MAUI COUNTY CODE, AND ESTABLISHING A NEW CHAPTER 13.04A, MAUI COUNTY CODE, RELATING TO PARKS AND RECREATIONAL FACILITIES, AND AMENDING SECTION 6.04.090, MAUI

COUNTY CODE, RELATING TO ANIMAL CONTROL OFFICERS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 15-237, from the Budget Director, be FILED.

COUNCILMEMBER VICTORINO: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-46.

COUNCILMEMBER COCHRAN:

AND, MR. CHAIR, I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It's been moved by Mr. Guzman, and seconded by Ms. Cochran, to accept Committee Report No. 16-46.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your EAR Committee met on October 13, 2015, November 3, 2015, November 17, 2015, December 1, 2015, December 15, 2015, February 2, 2016, to consider the proposed bill from the Department of Parks and Recreation to review, to revise the provisions of the Maui County Code dealing with the regulations and management of the County parks and recreational facilities.

The proposed bill repeals Chapter 13.04 of the Maui County Code, and establishes a new chapter relating to the use of parks and recreational facilities.

The Deputy Director of Parks and Recreation informed your Committee that the proposed bill is the culmination of the Department's two-year process of considering, of considerations by the public and the department concerns with the permitting process and facility regulations.

Among others, the proposed bill includes, adds to Waiale Park, the Wailuku, a list of the County parks where consumption of alcohol is prohibited, except as authorized by permit, lease, license, or concession. Number two, streamlines provisions regarding refreshment concessions.

Also, establishes the following four permit categories: Community Class, General Use, Government, and Special Events. And, also allows the Department to rent

equipment to be taken off County property, as well as rental of small equipment to non-profit organizations, and addresses the handling of feral animal colonies.

I respectfully ask that this Council support the Committee's recommendations. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you, Mr. Guzman.

Any further discussion? Seeing none, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, BILL NO. 30 (2016).

COMMITTEE REPORT

NO. 16-47 - HOUSING, HUMAN SERVICES, AND TRANSPORTATION  
COMMITTEE:

Recommending the following:

1. That Bill 31 (2016), entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 3.34, MAUI COUNTY CODE, RELATING TO THE RENTAL HOUSING DEVELOPMENT REVOLVING FUND," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That the Miscellaneous Communication, from the County Clerk, relating to the Rental Housing Development Revolving Fund, be FILED.

COUNCILMEMBER VICTORINO: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 16-47.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

COUNCILMEMBER VICTORINO: It's been moved by Ms. Crivello, seconded by Ms. Baisa, to accept the Committee Report recommendations in No. 16-47.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Housing, Human Services, and Transportation Committee met on March 3, 2016, to discuss the following: a proposed bill, entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 3.34, MAUI COUNTY CODE, RELATING TO THE RENTAL HOUSING DEVELOPMENT REVOLVING FUND", which would repeal Chapter 3.34, Maui County Code, eliminate the Fund, and transfer the balance to the Affordable Housing Fund.

The Rental Housing Development Revolving Fund was established in 1990 by Ordinance 1918, to deposit all County rental housing project rent moneys in excess of expenses for the purpose of developing rental housing projects.

The Fund has remained dormant for the past 15 years, and the current balance is \$52,775.

The Corporation Counsel stated that development of County rental housing projects is a permitted use of the Affordable Housing Fund, therefore, transferring the balance into the Affordable Housing Fund would still allow the balance to be used for those same goals.

Your Committee recommended passage of the proposed bill and filing of the communication.

Members, I ask for your support. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you, Ms. Crivello. Any further discussion? Seeing none, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Members, we have another heavy issue, heavy part of this agenda that's coming up. So, I would like to ask if, do you want to take a five minute break and be back at 11 and, you know, take care of your personal needs, or you want to just keep trucking through.

COUNCILMEMBER CRIVELLO: Break.

COUNCILMEMBER COCHRAN: Power.

COUNCILMEMBER BAISA: Power through.

COUNCILMEMBER COUCH: Power through.

COUNCILMEMBER VICTORINO: I hear break, I hear.

COUNCILMEMBER COUCH: Power through.

COUNCILMEMBER BAISA: Power through.

COUNCILMEMBER VICTORINO: Okay. Well, then if you need to go then--

COUNCILMEMBER BAISA: Just go.

COUNCILMEMBER VICTORINO: --I will let you, you will be excused.

Okay, moving right along. Mr. Clerk, I'm sorry.

COUNTY CLERK: Mr. Chair, for the record, that was BILL NO. 31 (2016).



COUNCILMEMBER VICTORINO: Thank you.

COMMITTEE REPORT

NO. 16-48 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 16-50, entitled "APPOINTMENT OF MEMBERS TO THE FIRE AND PUBLIC SAFETY COMMISSION FOR THE COUNTY OF MAUI," be ADOPTED;

*Approving the appointments of Joaquin Freitas and Travis Tancayo to the Fire and Public Safety Commission for term beginning April 1, 2016 and expiring March 31, 2021.*

2. That Resolution 16-42, entitled "APPOINTMENT OF MEMBERS TO THE HANA ADVISORY COMMITTEE FOR THE COUNTY OF MAUI," be ADOPTED;

*Approving the appointment of Linda Clark to the Hana Advisory Committee for term beginning April 1, 2016 and expiring March 31, 2021.*

*Disapproving the appointment of Jade Smith to the Hana Advisory Committee.*

3. That Resolution 16-43, entitled "APPOINTMENT OF MEMBERS TO THE MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES," be ADOPTED;

*Approving the appointments of Faraz Azizsoltani (Reappointment) and Cranston Kapoi to the Maui County Commission on Persons with Disabilities for term beginning April 1, 2016 and expiring March 31, 2021.*

4. That Resolution 16-44, entitled "APPOINTMENT OF MEMBERS TO THE MOLOKAI PLANNING COMMISSION FOR THE COUNTY OF MAUI," be ADOPTED;

*Approving the appointments of Michael Drew and Robert Stephenson to the Molokai Planning Commission for term beginning April 1, 2016 and expiring March 31, 2021.*

5. That Resolution 16-45, entitled "APPOINTMENT OF MEMBERS TO THE POLICE COMMISSION FOR THE COUNTY OF MAUI," be ADOPTED;

*Approving the appointments of May Fujiwara and Eugene Santiago to the Police Commission for term beginning April 1, 2016 and expiring March 31, 2021.*

6. That Resolution 16-46, entitled "APPOINTMENT OF A MEMBER TO THE REAL PROPERTY TAX REVIEW BOARD FOR THE COUNTY OF MAUI" be ADOPTED;

*Approving the appointment of Scott Innes to the Real Property Tax Review Board for term beginning April 1, 2016 and expiring March 31, 2021.*

7. That Resolution 16-47, entitled "RELATING TO THE APPOINTMENT OF KIRSTIN HAMMAN TO THE COMMISSION ON CHILDREN AND YOUTH," be ADOPTED;

*Approving the appointment of Kirstin Hamman to the Commission on Children and Youth for term beginning April 1, 2016 and expiring March 31, 2021.*

8. That Resolution 16-48, entitled "RELATING TO THE APPOINTMENT OF LUCY FEINBERG TO THE COMMISSION ON CHILDREN AND YOUTH," be ADOPTED;

*Approving the appointment of Lucy Feinberg to the Commission on Children and Youth for term beginning April 1, 2016 and expiring March 31, 2021.*

9. That Resolution 16-49, entitled "RELATING TO THE APPOINTMENT OF SHAY CHAN HODGES TO THE BOARD OF WATER SUPPLY," be ADOPTED;

*Approving the appointment of Shay Chan Hodges to the Board of Water Supply for term beginning April 1, 2016 and expiring March 31, 2021.*

10. That Resolution 16-51, entitled "RELATING TO THE APPOINTMENT OF ANTOINETTE LUCIENNE DE NAIE TO THE BOARD OF WATER SUPPLY," be ADOPTED;

*Approving the appointment of Antoinette Lucienne de Naie to the Board of Water Supply for term beginning April 1, 2016 and expiring March 31, 2021.*

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS 2 THROUGH  
9 IN COMMITTEE REPORT 16-48.

COUNCILMEMBER BAISA:

SECOND.

COUNCILMEMBER VICTORINO: It's been moved by Mr. Couch, seconded by Ms. Baisa, to accept Committee Report 16-48 from numbers 2 through 9.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. May I refer the Members to Mr. Victorino's amendment summary form which the Clerk distributed during the Council meeting today.

WITH RESPECT TO THE SECOND OF TEN PROPOSED RESOLUTIONS ATTACHED TO THE COMMITTEE REPORT, ENTITLED "APPOINTMENT OF THE MEMBERS TO THE HANA ADVISORY COMMITTEE FOR THE COUNTY OF MAUI", I MOVE TO STRIKE JADE SMITH'S NAME AND TERM FROM EXHIBIT "B" FOR APPROVAL, AND INSERT HER NAME ON EXHIBIT "C" FOR DISAPPROVAL.

COUNCILMEMBER BAISA:

SECOND.

COUNCILMEMBER VICTORINO: It's been moved by, it's been moved by Mr. Couch to amend for number 2, the adoption of the resolution to take Jade Smith's name from Exhibit "B", and move to Exhibit "C", and seconded by Ms. Baisa.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. By correspondence dated March 11, 2016, Jade Smith provided written notification that she is withdrawing her nomination from the consideration.

A copy of Ms. Smith's correspondence is attached to Mr. Victorino's amendment summary form for the Members information. The revised proposed resolution incorporating the proposed amendment is also attached to the form.

COUNCILMEMBER VICTORINO: Thank you. If there's any questions, first of all, I would like to thank Ms. Smith for putting her name out there. And, and as far as the withdrawal, you'll see her, her reasoning for that.

Any further discussion? Seeing none, all those in favor of accepting the amended resolution, moving Jade Smith's name from Exhibit "B" to Exhibit "C" for disapproval, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Oppose.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. A representative of the Mayor's Office spoke to the merits of the Mayor's nominees and assured your Committee of their ability to attend scheduled meetings.

Your Committee interviewed most of the Mayor's nominees, and all of the Council's nominees, and was satisfied with their qualifications to serve.

I respectfully request the Members consideration of my motion.

COUNCILMEMBER VICTORINO: Any further discussion? Seeing none, all those in favor of accepting the resolutions 3 through 9 *[sic]*, signify by saying "aye".

COUNCILMEMBER COUCH: Aye.

COUNCILMEMBER VICTORINO: All opposed.

COUNCILMEMBER BAISA: Chair.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and, I mean, I didn't mean, I said the resolution.

COUNCILMEMBER COUCH: Yea, it should be 2 through 9.

COUNCILMEMBER VICTORINO: Two through 9, I apologize. I correct myself, I'm sorry. For 16-48, it was 2 through 9, as amended, as amended.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER VICTORINO: I apologize. My mistake.

Okay, all those in favor signify by saying "aye".

COUNCILMEMBER BAISA: Aye.

COUNCILMEMBER VICTORINO: Oh okay. Wait, wait, I'm sorry. I didn't see you over there Mr. Carroll. Go ahead, Mr. Carroll, you had a question?

COUNCILMEMBER CARROLL: Thank you, Chair. The last one, number 9, are we going to consider that after this?

COUNCILMEMBER COUCH: Number 9? I'm sorry, what?

COUNTY CLERK: Number 10.

COUNCILMEMBER BAISA: Number 10.

COUNCILMEMBER CARROLL: Number 10, excuse me.

COUNCILMEMBER VICTORINO: Yea, yea, we're going, yeah, yeah--

COUNCILMEMBER COUCH: We haven't done that yet.

COUNCILMEMBER CARROLL: That will be discussed after?

COUNCILMEMBER VICTORINO: Yea, we separated them, Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you.

COUNCILMEMBER VICTORINO: You threw me off when you said 9. Okay, again--

COUNCILMEMBER BAISA: Let's be clear.

COUNCILMEMBER VICTORINO: --as amended, right, 2 through 9. All those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Okay, moving right along. Mr. Couch.

COUNCILMEMBER COUCH: That's all I have Mr. Chair.

COUNCILMEMBER VICTORINO: Okay. Okay, now who would like to bring up, let's start with number 1, cause you pulled it from the separated. So, I will go to you and say do you have a motion, or do you have something you want to bring up?

COUNCILMEMBER COUCH: I do not have a motion on this one. Thank you.

COUNCILMEMBER VICTORINO: Okay.

COUNCILMEMBER COCHRAN: Chair, Chair.

COUNCILMEMBER VICTORINO: Ms.--

COUNCILMEMBER COCHRAN: Chair.

COUNCILMEMBER VICTORINO: --Cochran.

COUNCILMEMBER COCHRAN:

SO, THEN I CAN MAKE A MOTION THEN TO, I MOVE TO  
ADOPT RESOLUTIONS APPROVING APPOINTMENTS IN  
ITEMS 1 AND 10. IS THAT?

COUNCILMEMBER VICTORINO: We've separated it, so--

COUNCILMEMBER COCHRAN: Oh, so we'll separate.

COUNCILMEMBER VICTORINO: --you can go 1 first and then 10 next or.

COUNCILMEMBER COCHRAN: So, okay.

COUNCILMEMBER VICTORINO: Yes, go ahead.

COUNCILMEMBER COCHRAN:

I'LL JUST DO THE FIRST MOTION FOR NUMBER 1 THEN.

COUNCILMEMBER VICTORINO: Okay, it's been moved by Ms. Cochran to accept the  
adoption of number 1, which is the appointments of Joaquin Freitas and Travis  
Tancayo to the Fire and Public Safety Commissions. Is there a second?

COUNCILMEMBER BAISA:

I SECOND.

COUNCILMEMBER VICTORINO: Okay, it's been moved by Ms. Cochran, seconded by  
Ms. Baisa.

Ms. Cochran, go ahead.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, this was a very heated discussion  
during Committee, as I was there. And, this is not to be, you know, sliding any  
Member that represents a certain district, I know it's difficult on especially on  
Ms. Crivello's part for this. But, I am in support, so that's my reason for putting the  
motion forward this, today. Thank you.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. You know, we did have intense discussion, and it was not, I'd like to just continue to, to express it had nothing to do with the individual. And we've, we've also have passed the appointment for the Police Commission. We've never had appointments to the Fire Commission on, from retirees of the Fire Department, nor from the retirees from the Police Department onto the Commission.

And, I still am not in favor of us opening up the doors for such, but we have. We, we are now allowing this to happen. And, you know, Members, they voted according to what they felt was right for them. And, I have met with the individuals individually. They totally understand, but felt encouraged to continue to serve because of the encouragement from the Mayor, the Administration, as well as other Members.

But, I will stick to the fact that we will be opening the doors for other retirees to, to serve on the Commission. Whether or not that's a good thing or a bad thing remains to be seen. I'd also like to make note, if I may, on, on this particular appointee as well as the appointee that we passed for the Police Commission.

It is nothing personal. I have a very close relationship. But, I see the, the respond from my people of my resident and my constituents on the island. And, when I went back home, many, many questions on what was going on, and I, I end there. Thank you.

COUNCILMEMBER VICTORINO: Thank you, Ms. Crivello.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I echo Ms. Crivello's comments and I, you know, didn't say it in the one, in the motion before because, you know, I made the motion so I can't speak against it, and I did vote for it. The whole adding a former police officer to the Police Commission, we did not do that for a previous former police officer. But, this case was a little bit different because he was under a different Chief at this time.

But that being said, I, I still cannot support for two reasons. The, the Molokai representative for Fire and Public Safety, if you look at our County Charter page 54, Section 13-2, number 3, it says the, basically that the, "In making appointments to all boards and commissions, the Mayor shall give due consideration to balanced geographic representation." I, I have to say that in my opinion, the Mayor did not do that willfully so.



There are 60,000 people in Kihei at one time; about 30,000 residents and about 30,000 tourists. And, Kihei has no representation on the Fire Public Safety Commission. I'm, I'm, and Molokai has two members. So, nothing against Molokai. Nothing certainly against Mr. Tancayo. I spoke with him on the phone, he's fine. My other issue is that, the fact that he retired while the current Chief was in service. And, I just think that sets a bad precedence as Ms. Crivello said. So, in that, I have no problem with Jack Freitas who is the other one.

SO, I WOULD ENTERTAIN A MOTION, OR I MEAN, I'M  
SORRY, I WILL MAKE A MOTION TO MOVE TRAVIS  
TANCAYO TO EXHIBIT "C". IF I WOULD GET A SECOND,  
THAT WOULD BE COOL.

COUNCILMEMBER CRIVELLO:

SECOND.

COUNCILMEMBER VICTORINO: It's been moved by Mr. Couch, seconded by Ms. Crivello.

Any further discussion? We'll vote on Mr. Tancayo as amended, to move from "B" to "C". All those in favor of moving Mr. Tancayo from Exhibit "B" to Exhibit "C", signify by saying "aye".

COUNCILMEMBER COCHRAN: Ch--

COUNCILMEMBER VICTORINO: I'm sorry, I'm sorry.

COUNCILMEMBER COCHRAN: No discussion on that?

COUNCILMEMBER VICTORINO: Oh, okay, I'm sorry. Go ahead, I'm sorry.

COUNCILMEMBER COCHRAN: So, just to be clear for the record and everyone.

COUNCILMEMBER VICTORINO: Yes, I'm sorry.

COUNCILMEMBER COCHRAN: "C" means--

COUNCILMEMBER VICTORINO: Disapproval.

COUNCILMEMBER COCHRAN: Disapprove.

COUNCILMEMBER VICTORINO: Yes, that is correct. Okay.

All right, all those in favor of the amendment to disapprove, please signify by saying "aye".

COUNCILMEMBER COUCH: Aye.

COUNCILMEMBER CRIVELLO: Aye.

COUNCILMEMBER VICTORINO: All those opposed say "aye".

COUNCILMEMBER COCHRAN: No.

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER VICTORINO: No, oh yea, okay no, yea, okay, I got it.

Roll call, Mr. Clerk, please.

COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER COUCH: Mr. Chair, excuse me, just to be clear of what we're voting on, again.

COUNCILMEMBER VICTORINO: The disapproval.

COUNCILMEMBER COUCH: The amendment, moving--

COUNCILMEMBER VICTORINO: That's your amendment, it was to disapprove.

COUNCILMEMBER COUCH: --moving Tancayo to "C" which would disapprove.

COUNCILMEMBER VICTORINO: --to "C". Yea, I said that, yea.

COUNCILMEMBER COUCH: Okay, thank you.

COUNCILMEMBER COCHRAN: Right.

COUNCILMEMBER VICTORINO: Okay. I said that, okay.

Go ahead.

COUNTY CLERK:	Councilmember Robert Carroll.
COUNCILMEMBER CARROLL:	NO.
COUNTY CLERK:	Councilmember Gladys Coelho Baisa.
COUNCILMEMBER BAISA:	NO.
COUNTY CLERK:	Councilmember Elle Cochran.
COUNCILMEMBER COCHRAN:	NO.
COUNTY CLERK:	Councilmember Don Couch.
COUNCILMEMBER COUCH:	AYE.
COUNTY CLERK:	Councilmember Stacy Crivello.
COUNCILMEMBER CRIVELLO:	YES.
COUNTY CLERK:	Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA:	AYE.
COUNTY CLERK:	Council Vice-Chair Don S. Guzman.
VICE-CHAIR GUZMAN:	NO.
COUNTY CLERK:	Council Chair Mike White.
COUNCILMEMBER VICTORINO:	EXCUSED.
COUNTY CLERK:	Council Pro Temp Mike P. Victorino.
COUNCILMEMBER VICTORINO:	AYE, NO.
COUNCILMEMBER COCHRAN:	What?
VICE-CHAIR GUZMAN:	What?

COUNCILMEMBER VICTORINO: Wait, wait, I apologize. I made a mistake. Okay, you guys got me confused. "No." My vote should have been "no". I apologize, I made a mistake. You guys caught me on that one.

Okay, Mr. Clerk, I apologize. That's my mistake.

AYES: COUNCILMEMBERS COUCH, CRIVELLO, AND  
HOKAMA.

NOES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, VICTORINO, AND  
VICE-CHAIR GUZMAN.

EXCUSED: CHAIR WHITE.

COUNTY CLERK: Mr. Chair, we have three "ayes", five "noes", one "excused".

COUNCILMEMBER VICTORINO: Thank you. So, the motion fails.

Going back to the main motion. Anymore discussion? Seeing none, all those in, in favor signify by saying "aye".

COUNCILMEMBER COCHRAN: Aye.

COUNCILMEMBER BAISA: Aye.

COUNCILMEMBER VICTORINO: Opposed.

COUNCILMEMBER COUCH: No.

COUNCILMEMBER VICTORINO: Okay. If I count correctly, you know what, let's have a roll call cause I, I'm not sure on this one.

Go ahead, Mr., Mr. Clerk.

COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: AYE.

COUNTY CLERK: Councilmember Gladys Coelho Baisa.

COUNCILMEMBER BAISA: AYE.

COUNTY CLERK: Councilmember Elle Cochran.  
COUNCILMEMBER COCHRAN: AYE.  
COUNTY CLERK: Councilmember Don Couch.  
COUNCILMEMBER COUCH: NO.  
COUNTY CLERK: Councilmember Stacy Crivello.  
COUNCILMEMBER CRIVELLO: NO.  
COUNTY CLERK: Councilmember Riki Hokama.  
COUNCILMEMBER HOKAMA: AYE.  
COUNTY CLERK: Council Vice-Chair Don S. Guzman.  
VICE-CHAIR GUZMAN: AYE.  
COUNTY CLERK: Council Chair Mike White.  
COUNCILMEMBER VICTORINO: EXCUSED.  
COUNTY CLERK: Council Pro Temp Michael P. Victorino.  
COUNCILMEMBER VICTORINO: AYE, I APOLOGIZE, OH MY GOD.

AYES: COUNCILMEMBERS COUCH AND CRIVELLO.

NOES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, HOKAMA, VICTORINO, AND  
VICE-CHAIR GUZMAN.

EXCUSED: CHAIR WHITE.

COUNTY CLERK: Six "ayes", two "noes", one "excused".

COUNCILMEMBER VICTORINO: Thank you very much.

So, moving onto our next item number 10.

Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO ADOPT RESOLUTION APPROVING THE  
APPOINTMENT OF ANTOINETTE LUCIENNE DE NAIÉ TO  
THE BOARD OF WATER SUPPLY FOR A TERM BEGINNING  
APRIL 1, 2016 AND EXPIRING MARCH 31, 2021.

COUNCILMEMBER CARROLL:

SECOND.

COUNCILMEMBER VICTORINO: It has been moved by Ms. Cochran, and seconded by Mr. Carroll.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, we heard a lot of testimony during Committee in favor, and sharing all the, the characteristics of Ms. de Naie. And also this morning, and also during that time, there were some conflicting, I guess, concerns and issues in regards to this nomination.

And, we had Corporation Counsel, Deputy, First Deputy Kushi, here who stated a lot of points saying, basically, that there is no conflict, stating points from our Charter itself. And that, you know, that the nominee has the right to recuse herself if ever a certain item comes up in regards to any litigation matter or its seeming of conflict of interest.

And, as people have shared that everyone's, I'm extremely confident that she will take that opportunity to state so, and to recuse when appropriate and needed in any event that should occur, because that is a big "if". And, it's so I, the points that were made during the decision-making process to be here were vetted out. But, I think present Corporation Counsel may have differing comments in regards to what was stated during the Committee level.

So, at that point, Chair, I do have more points to make if need be, once I hear what, perhaps, Mr. Wong will be bringing forward. But, if not, I am in huge support of Ms. de Naie to be there. And very, very confident, not just with her knowledge about the water issues in this County and abroad, but in her, I have faith that she will recuse if need be if there's any, any hint of some type of conflict of interest going to be occurring in the deliberations within the Board of Water Supply.

So with that, I just want to put forward my recommendation, continue to support this nominee to be on our Board of Water Supply. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I'm supporting this nomination because I think it's the best person to be on that Board. We have heard Mr. Kushi and we have heard other things, legal opinions.

But, I think common sense needs to take a front seat over here. We have a lot of situations where there are conflicts with board members with either the legal establishment or some other entity that they serve on. They've always been able to handle that. They've always been able to overcome it. You would think that it was contingent that she would have to talk, ask questions to Mr. Taylor, constantly without an attorney there. As we all know, we've all served on boards, this is not the case; most of the board discussions are on the matters at hand.

She is willing to recuse herself if there is any hint that there is some conflict of interest; that is no problem. She knows that a direct question to Mr. Taylor, although it couldn't be answered, there obviously is ways it can be done. Mr. Taylor can just take the question, not answer, and answer at the next meeting after he confers with an attorney. In other words, there are ways that you can operate that are not overbearing, and that are not overly difficult. This can be done.

We really need her on there. She has a history, especially of East Maui, Haiku, and all that area. She's also worked in all the other areas, even Kihei and Lahaina. She's very knowledgeable. Hana, we really need somebody that knows our distribution system and how it works. I think she's the best person to have on there. And, aside from the concerns from our legal establishment, and I respect her opinions, but I repeat, they are opinions.

And, I think that common sense would dictate that we approve the nomination of Lucienne de Naie. Thank you, Chair.

COUNCILMEMBER VICTORINO: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I did not make this motion because I can't speak against the motion. I have no issue with Ms. de Naie's knowledge. She has extensive knowledge, I agree with that. She has strong concern for Maui County, I agree with that as well. And, in fact, if we had nine Members with her extensive knowledge and strong concern on the Board of Water Supply, we would have a much better Board of Water Supply.

My sole concern is because she is the President of an organization who sits across the table from the Director, in active litigation. That, speaking of common sense, that makes no common sense to have somebody who would have access to potentially confidential records being on the Board of Water Supply, being able to, to be on the Board of Water Supply and then sit across from the Director and challenge his legal findings. That was my concern from the beginning.

My concern is also with the advice we got from Corporation Counsel as a matter of fact. I quite frankly thought it was iffy at best, but I'm not a lawyer. So, I'd like to ask Mr. Wong to reiterate the Corp. Counsel Department's stance on whether or not Ms. de Naie would be having to recuse herself all the time. Or if she's, I mean if, if the, the Department is comfortable with having somebody who's suing them on, on a board that they're suing. It just doesn't make sense.

COUNCILMEMBER VICTORINO: Mr. Wong, before you get started, I'll ask others if you have specific questions for Mr. Wong. Now's the time so that he can address them all as much as possible in public. I want this done in a public venue. In other words, we may have to go in executive session, but it will only predicate on the fact that it would be some matter that is in litigation, okay. So, I am not wanting to go into executive session unless it's a matter that is pending in litigation, okay.

Ms. Baisa, go ahead.

COUNCILMEMBER BAISA: Thank you very much, Chair. This is one of those issues, of course, that becomes very difficult because I have the greatest admiration for Ms. de Naie. And I know that she's very knowledgeable about our water system and would probably be a great asset on the Water Board.

However, when we were making this decision, I asked the question about the conflict of interest. And, the Committee was advised that it was not a problem. So, if there is another opinion, I want to hear about it. Thank you.



COUNCILMEMBER VICTORINO: Okay, thank you, Ms.

Any other questions that you would like to direct to Corporation Counsel Wong before I open the, yes, Ms.--

COUNCILMEMBER COCHRAN: Cochran.

COUNCILMEMBER VICTORINO: --Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

COUNCILMEMBER VICTORINO: I, I'm sorry.

COUNCILMEMBER COCHRAN: That's all right. I know, you're fuzzy with the cold, go get the horse blanket.

COUNCILMEMBER BAISA: And the eucalyptus.

COUNCILMEMBER VICTORINO: And the eucalyptus, of course.

COUNCILMEMBER COCHRAN: Mr. Wong, I guess as you're going to take questions from us, mine I guess is how often do you predict that certain situations may occur on the Board of Water Supply with Ms. de Naie being there in some, I don't know, line of questioning that has to do with active litigation to the point where she would sort of be useless to even be a, be a board member, because most of the time she can't participate. I mean, I'm just trying to figure out instances where her, you know, her participation will just simply won't be approved or allow because of those types of scenarios.

COUNCILMEMBER VICTORINO: Okay.

COUNCILMEMBER COCHRAN: So, that's my kind of question, general question.

COUNCILMEMBER VICTORINO: That's your question, okay.

COUNCILMEMBER COCHRAN: Yes.

COUNCILMEMBER VICTORINO: Any other questions before I allow Mr. Wong to start answering the various questions.

I hope you got them all in order, Mr. Wong. So, go ahead, sir. And thank you for being here.

CORPORATION COUNSEL PATRICK WONG: Sure thing. Thank you, Chair, Members. I find myself in a very awkward position at the moment. But, let me take you through a few steps, and maybe I can help you understand the complexities of the issues you're confronted with. And, the difficulties of the presentation, and how you anticipate things may or may not occur.

Let me start with reciting the obligation that I have by Charter, 8-2.3, Subsection 2, "Be the chief legal advisor and legal representative of the County of Maui; of the Council, the mayor, all departments, and all boards and commissions; and all of the officers and employees in matters relating to their official duties."

With that, I move to the responsibilities of the Board of Water Supply. In particular, Section 8-11.3. "The board of water supply shall act as advisor to the director of the department of water supply, the mayor and the council in all matters concerning the county's water systems."

Section 8-4, 8-11.4, "Powers, Duties and Functions of the board of water supply. The board of water supply shall: 1. Review and submit to the mayor the department of water supply's request for annual appropriation for operations and capital improvements."

At the core of the Board of Water Supply's responsibilities is to address the Department of Water Supply's request for the annual appropriation for operations and capital improvements. That's the finance capacity of the Department of Water Supply. Why is that important that the core of the operation of the Department of Water Supply is its financing capacity, and it's exploration of water issues? What you have before you is an awkward circumstance. I'm not going to tell you that the previous opinion from my Deputy is inaccurate. The opinion you got is that there's no conflict with that Code and our Charter. And, I will agree with that, that our Charter provisions that as it deals with our Code.

And, I'll read you different provisions in that Code. And, I agree with them that there are circumstances where Ms. de Naie may be able to recuse herself from voting. But what I'm going to tell you in the next few minutes doesn't necessarily overrule what my Deputy has presented. I believe it's consistent with what my Deputy has presented.

The presentation that you received was, if you look at our Rules, there is, there would be no apparent violation of those rules. If you were to ask the Board of Ethics for an opinion on whether or not Ms. de Naie, in her capacity can sit, the opinion you'll probably get is that on items that she believes she should recuse herself, then she

should recuse herself. And, that would be a consistent opinion, and I would agree with that.

We don't have a circumstance where a member of an organization is asking for an appointment to a very significant commission. What you have is the President of an organization, Maui Tomorrow; the Vice-Chair of a statewide organization, the Sierra Club. Both roles are entirely different than a simply, a dues paying member that receives a magazine and is part of the membership. You have an individual that is in a decision-making role for those two organizations. They decide whether or not, and she can correct me if I'm wrong, they decide as the president of the board and as a vice-chair of a board on whether or not to file a legal cause of action.

When you have the capacity on behalf of an organization to influence your organization whether to file suit or not, you are not sitting in the same role as any other member of that organization. So, I offer to you an awkward circumstance. I offer to you that you have someone who has a heightened role that you should have heightened scrutiny for, that you should look at very closely. The appearance of impropriety is key. The access to information that she may or may not have is also key.

Is it possible that in a board position on the Board of Water Supply, that the president of an organization that frequently in the past, and currently has brought legal claims against the County of Maui? Can that person have access to information? Absolutely. Can we forestall every circumstance to prohibit that from occurring? We can try very hard. But, is it going to interrupt the operations of the business and the functions of that board? I could venture to only guess. We're not going to know unless and until the person is in that seat. You're charged with the responsibility to be able to determine and place someone in a position that is awkward to say the least.

If you want me to discuss the particular legal matters that are pending before the County, I'm going to ask you to move into executive session, because some of those matters are active, and legal strategy may be compromised in an open session. So, I will not, at this time, discuss the pending matters that those organizations may in, may be involved in.

If you have any questions for me directly, I welcome, I welcome any questions, I'm willing to answer them.

COUNCILMEMBER VICTORINO: Okay. Thank you, Mr. Wong. And, I want to do as much in open session as possible. I want the public to see that we are transparent, but again, I repeat, if we get to the point where it has to be specific on litigated items,

then I will call for an executive session. I will start with you, and I'll keep it to just two basic questions, and move on, because I want everyone to have an opportunity. And, if you don't have a question, you can just say go on, and. So, Mr. Couch, I'll start with you.

(Councilmember Guzman was excused from the meeting at 11:24 a.m.)

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

Mr. Wong, thank you for that information. You mentioned the financial aspects. So, my question to you is, if some reason we, we say yes, she's on the board and then somebody other than those organizations sues us for making that decision because of a financial situation, are we then personally liable as individuals, and would we be indemnified?

COUNCILMEMBER VICTORINO: Mr. Wong.

CORPORATION COUNSEL: Chair, if I may. That's a interesting hypothetical. In terms of anticipating a third-party claim against you for the decisions you make on the floor, it's very difficult to, for me to address it, aside from saying we receive litigated claims on a regular and consistent basis. Whether or not someone files a claim, I, I cannot predict that. Is it conceivable that you could be identified as a defendant for the decisions you've made? Yes. Is it conceivable that you could be identified as a defendant and that you be personally liable? The answer to that is also yes, that's also conceivable.

Regarding indemnification, it's this body that decides whether or not any County employee receives indemnification when there's any legal matter before the County. So, the short answer is you may be, depending on the circumstance, open to exposure. And, this body decides whether or not to provide that indemnification. That's the best way I can answer that.

(Councilmember Guzman returned to the meeting at 11:26 a.m.)

COUNCILMEMBER COUCH: Thank you, Mr. Wong. The last question, you said I could do two. The last question is, if Ms. de Naie resigned from those board positions, would it be better for the County to, if we can have her on the board? I mean, if we vote her on the board because she resigned from those positions, you have less of a conflict concern?

CORPORATION COUNSEL: Chair, if I may.

COUNCILMEMBER VICTORINO: Go ahead, Mr. Wong.

CORPORATION COUNSEL: The concerns that I raised earlier is as it relates to a member of an organization that has a decision-making role. I do know, and I have said in the past, that being a dues paying member of an organization where you simply pay a due, receive a magazine, and is part of a general membership, I have in the past said that that type of membership does not concern me. That type of individual does not have decision-making capacity for an organization like the Sierra Club and Maui Tomorrow.

The distinction that I draw is an executive member, the president, vice-president, chair, vice-chair, that has direct influence on the overall organization to determine whether or not that organization files a claim or not. That's the type of individual that I have a concern. And, it's an awkward concern because that type of individual, nine times out of ten, has the ability to influence that organization to file suit or not.

And, it is the litigated claim that I'm concerned about. And, it is my role, as the chief legal advisor for the County to raise that as an issue for you to consider in your deliberations. I do not have a vote.

COUNCILMEMBER COUCH: Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: And, thank you, thank you, Chair. Thank you for being here, Mr. Wong.

I don't know what organization or what official capacity that Ms. de Naie has because it hasn't been mentioned. However, are we, what, serving on different boards and when, when there's discussion or possible conflicts, we usually disclose that. So, as a board member, if there is possible conflict about the discussion or the agenda, or what have you, is it appropriate enough for the board member to, to disclose if there is a conflict? And then, but are we saying . . . but are we saying that existing litigation matter, litigating matters involves the said possible appointee is going on now?

COUNCILMEMBER VICTORINO: Mr. Wong.

CORPORATION COUNSEL: Chair, if I may. To try to help you in answering your first comment, I, this morning, for the first time, took a look at two websites; one is the Sierra Club website, the other one is a Maui Tomorrow website. Very first time I ever

looked at it today. In both websites, it identifies Ms. de Naie as the President of Maui Tomorrow and the chair, the Vice-Chair of Sierra Club; that's on their active website as of this morning.

A board member that has a conflict should, prior to deliberation on any matter, voice that apparent conflict and raise it in an open session such that the board members and the general public can be made aware that that individual has a conflict. That individual then needs to decide whether or not he or she will participate in the discussion, and also will need to decide whether or not he or she will vote on the matter.

If the item is so integral that that individual has a personal interest, or has a beneficiary interest in some matter, then that person should recuse themselves from voting, not necessarily having or being part of the discussion.

It is up to the Chair of that particular governing body to discern whether or not that individual should vote or not. I can suggest that the Board of Ethics has received, in the past, requests from different individuals on whether or not an individual can be part of a board or commission if they have a conflict. And, I do know that the Board of Ethics has issued opinions that says you can be a board member as long as, prior to any discussion of any noticed matter, you reveal your conflict and you announce it to the world. And then you can discuss, so, everybody knows that you have a conflict. So, yea, that's a short answer to your question.

Is there any other questions I can help.

COUNCILMEMBER CRIVELLO: Thank you.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Hokama.

I'll just go right down the line if you don't mind.

COUNCILMEMBER COCHRAN: Oh, yea, yea.

COUNCILMEMBER VICTORINO: You have any, any question?

COUNCILMEMBER HOKAMA: One potential scenario, Chairman.

COUNCILMEMBER VICTORINO: Yes, sir.

COUNCILMEMBER HOKAMA: So, thank you, Mr. Wong. It's hard to make potential scenarios because it may never happen, so we understand that. But, what is an interesting scenario for me is the board makes a decision, this nominee participates in her other two organizations, and then a decision to take County to litigation on a manner that came before that board. Does the County still view her as an officer of the County, whereby we would then still consider indemnification?

COUNCILMEMBER VICTORINO: Mr. Wong.

CORPORATION COUNSEL: Chair, thank you. Mr. Hokama, that is a very, very good question, and a very difficult one. I think that should that matter be presented to this body in terms of indemnification, I think you'd be hard-pressed not to indemnify, because that individual fits into that category that I read for you. As long as the, the action is within the course and scope. And, I can, I can anticipate that scenario being presented to this body for consideration. So, that is a likely scenario.

COUNCILMEMBER HOKAMA: Well, for me, I'm going to try and avoid it at all cost, that scenario.

Thank you, Chairman.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Guzman.

VICE-CHAIR GUZMAN: Chair, I don't have any questions. I'm just trying to take in everything that Corp. Counsel has relayed to the body. You know, for me, I hear Corp. Counsel is advising, you know, and that's his job. He needs, that's any good attorney's job is to, they've got to look at all aspects and advise their client. And, and I think they've done a good job with advising this Council. And, it's really up to us whether we move forward or, it's just an advisement, he's not saying don't do it. He's, his opinion is very consistent with what Deputy, First Deputy Kushi has said, it's just an advisement. These are aspects that we need to look at.

And, I think in, in this situation, yea, we have measures in place. We, as a board, as a commission, they go into executive session as well. And, when they do go into executive session, they're held to the same standard as we are on the Council. If there's a breach of disclosure of that information, then you have fiduciary duty issues that can be, you know, sought after that individual.

So, I believe that there's measures in place. The, there's nothing that prevents any board member to file suit on an individual capacity. The question remains is, does

Ms. de Naie have the only authority to say yes or no their organization is going to file suit. I very much doubt it. I think shes' probably one of many that vote, or may not even be part of that decision that that question or, and answer has not been assessed by Ms. de Naie. We haven't really been able to ask that question of her. I don't know if it was asked of her during the Committee.

Based off of the, what has been relayed to this Council, the Code and the Charter allows her to join, and there's no immediate conflict. And, I would assume that Ms. de Naie, as an individual, would recuse herself based on the fact that if they do go into executive session and does, and does pertain to very vital and, and imperative important information, she's going to be smart enough not to be included in that.

And, and how often is the, you know, water, Board of Water Supply involved in that high a level of disclosure of information? I'm not, I'm not sure. But, it appears, it appears it may not be, because they're, they're like a, they are advisory group, you know.

So, at this stage, I've taken under the consideration both the First Deputy's opinion and as well as Corporation Counsel's opinion. And, I'm ready to move forward with voting. And, I will support this nomination. So, I, I've been well, for the record been well-advised. And, I make my own decision as a Councilmember. Thank you.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Carroll, would you like to add anything further?

COUNCILMEMBER CARROLL: All the questions I would have asked have been asked already. I have comment, but I'll wait till after the Members, Members are through.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I think everybody knows where I stand. You know, I, during the meeting and again this morning, I mentioned that I have the greatest respect for Ms. de Naie. She's a very knowledgeable source, and of course, a very active community member, and comes very well-supported. We have lots and lots of paper on our desks supporting her nomination. So, this is very troubling.



And, I really regret that, you know, we're sitting here having to do this because I didn't quite understand the legal ramifications when we made that vote. And, the only reason that I would not support it is because somebody has convinced me that I'm breaching my fiduciary duty as a Councilmember that needs to protect the County. So, it's kind of a tough one.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And so, Chair, I know you're only allowing two questions but my, my one question in the opening line of questioning to Mr. Wong was never answered. So, I do not want that to be counted as my two questions, if I may ask that?

COUNCILMEMBER VICTORINO: Well, you just keep moving along, okay, please.

COUNCILMEMBER COCHRAN: So my, my first, but I want the answer to my first question for starters.

COUNCILMEMBER VICTORINO: Mr. Wong.

COUNCILMEMBER COCHRAN: Which was, Mr. Wong, if, if you want me to recap is, how many instances do you anticipate or foresee that Ms. de Naie would have to be recusing due to conflict of interest, litigation, litigative matters or what have you. That your whole defense here is in regards to sort of that aspect of having her on this board.

CORPORATION COUNSEL: Chair, if I may. In order for me to properly respond to that, I, I need to discuss the current litigated matters before, before the Council. And, I will offer the identification of one without getting into why it's concerning for me, and it is dealing with the East Maui consent decree. And, I will ask that if you want me to get into the details of why I'm concerned, then we would need to go into executive session.

COUNCILMEMBER VICTORINO: Go ahead.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Mr. Wong for your explanation. But, you know, I, I really have a tough time taking that as an answer right now, cause that is. Anyways, Chair if you don't mind, is there any way, I see Ms. de Naie here in the gallery, can she be a--

COUNCILMEMBER VICTORINO: Can you finish up with Corporation Counsel, then I will consider bringing Ms. de Naie up again.

COUNCILMEMBER COCHRAN: Well--

COUNCILMEMBER VICTORINO: Okay. So, please finish up with Corporation Counsel.

COUNCILMEMBER COCHRAN: I, so, Chair, I believe the points that Ms. de Naie can bring forward will, not dispute, I don't want to use antagonistic type language, but will point out that the comments that Mr. Wong is saying this morning, is not correct. It's not very accurate, let me put it that way.

And, I have a whole list of all these supposed litigations and what have you, they're called petitionings, they're called, you know, being a party to, they're called. So, and Ms. de Naie, for starters, is not president. Maybe, their bad, the website needs to be updated right now. But, she has stepped down from those roles to allay other Members points about that.

And, I guess one question, Mr. Michael Howden was on the Board of Water Supply, and also at the same time on the board of Maui Tomorrow, also at the same time during a litigation having to do with water. So, where did that example fall into play with what you're trying to tell us today?

COUNCILMEMBER VICTORINO: Mr. Wong, would you like to address that question?

CORPORATION COUNSEL: Are you suggesting that the websites for both organizations are inaccurate?

COUNCILMEMBER COCHRAN: Yes. Unfortunately, like I said, hey, non-profits, you know, they don't have all the manpower in the world to keep things, unfortunately updated, but yes.

CORPORATION COUNSEL: And that Ms. de Naie is not the President of Maui Tomorrow nor the Chair of--

COUNCILMEMBER COCHRAN: Vice-Chair.

CORPORATION COUNSEL: --the Chair, the Vice-Chair of the Sierra Club?

COUNCILMEMBER COCHRAN: Correct.

CORPORATION COUNSEL: She does not--

COUNCILMEMBER COCHRAN: And, but she, and Chair, this is why if there's any way to get Ms.--

COUNCILMEMBER VICTORINO: I will call upon her. Go ahead, go ahead, you talk with Mr. Wong please. Let's finish up that first. Go ahead. I'd like to complete that before I call Ms. de Naie up, please.

CORPORATION COUNSEL: Thank you, Chair. So, as I stated earlier, my concern was heightened as it relates to a board member of an organization. But you're representing today that she is not a board member of any of those organizations?

COUNCILMEMBER VICTORINO: So at this point, Mr. Wong, I'll stop you here. At this point, I'll call Ms. de Naie for verification on what's on the webpage versus what's actual, actually there.

So, Ms. de Naie, would you come down and clarify for this Council and our Corporation Counsel, your position within the two organization as been discussed.

MS. DE NAIE: Yes, thank you.

COUNCILMEMBER VICTORINO: Ms. de Naie, go ahead.

MS. DE NAIE: Thank you for this opportunity. I have not been on the board of Maui Tomorrow for 10 years, but I was elected in January 13 of this year to the Maui Tomorrow board after 10 years. So, when all these litigations were filed, whatever, I was not a board member. I was elected president at the same time. And, that is accurate that I am President of Maui Tomorrow as of January 13 of this year.

I am not Vice-President of the Sierra Club, Hawaii Chapter.

COUNCILMEMBER VICTORINO: Vice-Chair, I think it was.

MS. DE NAIE: Vice-Chair--

COUNCILMEMBER VICTORINO: Okay, thanks.

MS. DE NAIE: --that elapsed also January of this year. I am a board member of a 15-member executive committee of, I guess actually no, now it's a 11-member executive committee, of the State Chapter of the Sierra Club. And, I am a member of a 9-person, but not an officer, I'm Conservation Chair to Committee Chair, of the Sierra Club, Maui Group.

So, there's two separate entities; the, the State is the overarching entity, and then there's four groups of Sierra Club in the State. So, hopefully that clarifies.

COUNCILMEMBER VICTORINO: So, we are correct in saying that you are now presently the President of the--

MS. DE NAIE: I am President of Maui Tomorrow.

COUNCILMEMBER VICTORINO: --Maui Tomorrow.

MS. DE NAIE: I am not Vice-President--

COUNCILMEMBER VICTORINO: Vice-Chair.

MS. DE NAIE: --Vice-Chair of the State board of the Sierra Club.

COUNCILMEMBER VICTORINO: So, you've resigned, or you're off of that board at this point? Is that what you're saying?

MS. DE NAIE: No.

COUNCILMEMBER VICTORINO: No.

MS. DE NAIE: I'm a member of that board.

COUNCILMEMBER VICTORINO: Member of the board but not Vice-Chair.

MS. DE NAIE: Yea, I have, I have one-year, I have one-year left on my term.

COUNCILMEMBER VICTORINO: Okay, but not the Vice-Chair anymore.

MS. DE NAIE: But, I'm not the Vice-Chair.

COUNCILMEMBER VICTORINO: Okay. Questions specifically for Ms. de Naie.

Go ahead, Ms. Cochran.

COUNCILMEMBER COCHRAN: And so, thank you, Ms. de Naie for that clarification. And, pardon my misspeaking in regards to, that's why I want, I wanted her up here to clarify.

MS. DE NAIE: And the, and the websites are not always up to date.

COUNCILMEMBER COCHRAN: Thank you. And, and so, Ms. de Naie, during all this talk in regards to your participation in these litigative matters or whatever, you were not actually members, you've cleared that up, of these particular organizations?

You are currently, currently is Maui Tomorrow in a lawsuit, or litigation, or something against the County currently?

MS. DE NAIE: Maui Tomorrow is a party to, having to do with water. Maui Tomorrow is a party to the East Maui streams contested case, along with the County, along with A&B, along with Na Moku Aupuni, along with a variety of people.

No one's suing the County. Actually, Maui Tomorrow use to kind of work with the County on water issues with Na Wai Eha, and I think that's one of the reasons it got settled, which, I don't know if you guys, I'm kind of a peacemaker. I would like things to be settled and moved on. But, you know, our system is a tug-of-war.

So, Maui Tomorrow is not suing the County about water. Maui Tomorrow just sued the County over an EIS recently. We agreed with Planning Director Spence, that an EI, EA needed to be an EIS for a particular development project, and the court agreed with us. Maui Tomorrow is in settlement discussions, or actually no.

That's, that, that's it, that's, those are the two litigations that, that had to do with the County. So, one had to do with the land use thing, or actually we agreed with the Planning Department, but they didn't sue and we did. And, the other is the East Maui case. Na Wai Eha, Maui Tomorrow is a plaintiff in, that has been settled as to the streamflow standards.

A action was recently filed asking the commission to look at those streamflow standards in light of the fact that HC&S is no longer growing sugar cane, because the decision was based on that level of use. That will go to the Water Commission. I mean it's not, Maui Tomorrow never said, oh the County shouldn't have, you know, water for its Iao Treatment Plant. We were supportive of that, as, as were Na Wai, Hui O Na Wai Eha. I, I know it's, it's a little complicated to try to discuss all this stuff.

But, I think what Mr. Wong was referring to is Sierra Club, is in an active litigation right now over the East Maui consent decree. Maui Tomorrow is not a party to that consent decree.

COUNCILMEMBER COCHRAN: And, you are not Vice-Chair, as you mentioned for Sierra Club anymore?

MS. DE NAIE: I am not Vice-Chair of Sierra Club. Sierra Club has a painfully democratic process. One person's vote does not guarantee anything, nor does Maui Tomorrow. I mean, as Mr. Guzman says, most boards, one person cannot decide anything on a board. The whole board has to decide to, to go forward or not go forward.

COUNCILMEMBER COCHRAN: Well, thank you. And, just for disclosure, I am also a member of Sierra Club. I am a dues-paying 35 bucks a year, or something or other. So, I mean, does that disregard me from making a decision here? I'm a Sierra Club board member too, but, and normally get endorsed by them. But, anyways, I'm sure there's other questions for Ms. de Naie.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thank you, Ms. de Naie, for clarifying that. I appreciate that.

MS. DE NAIE: Yea, sorry. It's very confusing.

COUNCILMEMBER COUCH: Yea.

MS. DE NAIE: I'm a busy person.

COUNCILMEMBER COUCH: Are the, are there any instances where you're sitting across in opposition to the, the Director of Water Supply in any kind of litigation or settlement agreements?

MS. DE NAIE: I think there was a settlement agreement conference held for the consent decree, but we were not in the rooms at the same time. The mediator wanted each of the party's to be in the room at separate times. So, Mr. Wong, I believe, was in the room and a, and a deputy assistant when we started out with Judge Cardoza. And, then we were just kind of dismissed into our separate rooms to work with the mediator. So, no.

I was on the mediation team for Na Wai Eha way back, when we tried to settle it the first time. And, I think that Mr. Wong's predecessor and Mr. Taylor's predecessor, Mr. Tengan, were in the same room during the discussion. And, this goes back a ways, yea. But, you know, once again at that time, actually, I think the County and Maui Tomorrow were kind of on the same page that we should settle this. But, the other party's weren't as agreeable.

I don't know. I just have a long history on this stuff. I will say one thing though, I sit on the board of the Maui Coastal Land Trust now. I don't sit on the, the new HILT board, but I was one of the founders of the Land Trust. When we discuss things there, they are held in utmost confidence. I cannot mention them to any other organization. I cannot mention them to my own husband, because we signed a confidentiality pact. Because, it's like that is the essence of your trust as a board member.

So, I am familiar with separating yourself as a member of one organization and a board member of another organization where you have a fiduciary responsibility to that organization that you are currently receiving that information from.

That being said, I agree that if a sensitive matter came up I think it would just be more comfortable for all concerned to recuse myself. Sierra Club makes you leave the room, actually, if you recuse yourself. They, they just make it so you're not listening, basically. And, you come in after the discussion is done. That, that's, that's their national policy.

COUNCILMEMBER COUCH: Okay. And last, lastly, I appreciate your comments about the peacemaker. I, I, I agree with that. As a potential, you know, solution to all of this, I, I would think that you'd get a unanimous vote if you were willing, be willing to step down from both of those boards. I know you only have one year left on Sierra Club. But, you can see our, our concern.

MS. DE NAIE: Yea.

COUNCILMEMBER COUCH: And I know you would, because there's potential that you'd be able to get some information that is not readily available to the public, or even available to the public, just some confidential information that could then be used against. That's the only concern that's, that's bothering at least some of us.

MS. DE NAIE: I understand that this board has a difficult decision and, and really has to weigh the entirety of their responsibilities.

I, I, I just have to say that on principle, having watched the Board of Water Supply, when it had full authority to approve everything, including the hiring and firing of the Director, had a member who was the chief operating officer of a very, very large development company here, who had a contract with the Board of Water Supply. This individual was on the committee that renegotiated that contract that his company was going to benefit from. No one ever asked him to step off that board. I think he conducted himself honorably.

I have looked at paid employees of our various unions that have served on the Planning Commission that has ultimate authority over make or break, whether a project goes forward or doesn't that could affect their, the people who pay their salary; the Carpenter's Union or the ILWU. Those people have acted honorably. They were not asked not to serve on that board, because many of the projects they review really could have an impact on those that they are paid to serve.

I just think on principle that I would hope the Council would trust me. Thank you.

COUNCILMEMBER COUCH: Thank you.

COUNCILMEMBER VICTORINO: Okay, Ms. de Naie, I, I think I'm going to stop that line of questioning right now, okay. I think we want to stick with the facts. Ms. de Naie is the person we're looking at. We're looking at the issues today. We're not going to look back 25 years ago or 10 years ago. However, you bring up some good points, and thank you, I appreciate that.

Any other questions for Ms. de Naie directly? Seeing none, thank you very, very much.

MS. DE NAIE: Thank you.

COUNCILMEMBER VICTORINO: Do we truly need to go to executive session, ladies and gentlemen?

COUNCILMEMBER BAISA: No.

COUNCILMEMBER VICTORINO: If not, then I'm going to call for the question, unless there's further discussion to be brought up.

Yes, Mr. Carroll.

COUNCILMEMBER CARROLL: I waited until, as you requested that everybody could ask their questions.

COUNCILMEMBER VICTORINO: Yea just make it quickly, cause I have to, let me, let me say it this way. Ms. Baisa has to leave very shortly, and I have an, she has a committee report she really needs to bring up, but go ahead.

COUNCILMEMBER CARROLL: I will take 30 seconds.



COUNCILMEMBER VICTORINO: Okay, go ahead Mr. Carroll. Thank you. I appreciate it.

COUNCILMEMBER CARROLL: After heard, after hearing all of the Members concerns and Corporation Counsel and all that has transpired before us, I feel at this time that Ms. de Naie can serve on the Board of Water Supply. I think it's in the best interest of the County, the Board of Water Supply, and our people, to have her there. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you, Mr. Carroll.

Any further discussion?

COUNCILMEMBER COCHRAN: Five seconds, five seconds.

COUNCILMEMBER VICTORINO: And, quickly

COUNCILMEMBER COCHRAN: And, I concur with Mr. Carroll. I believe than, rather than think of her as an antagonist here, but someone who can work with, as she said peacemaker, peacemaker, and also bring some very great knowledge onboard. So, I think to collectively, collaboratively, cooperatively, I think she can bring some, make some good things happen on this board. So, I continue to support her.

COUNCILMEMBER VICTORINO: That's a long five seconds. But, I didn't want to go there.

COUNCILMEMBER COCHRAN: Sorry, that's County five seconds.

COUNCILMEMBER VICTORINO: Okay. Okay, any other discussion?

Yes, Mr. Couch. And, make it quick now please.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I'm just concerned about our fiduciary responsibility as been mentioned. And that's my chief concern at this point.

COUNCILMEMBER VICTORINO: Thank you. Well noted.

Anything else?

VICE-CHAIR GUZMAN: Real quick, Chair.

COUNCILMEMBER VICTORINO: Real quick, yea, please, please.

VICE-CHAIR GUZMAN: Yea, you know just stating, yea. You know, people can wear multiple hats and, and it does come down to integrity. And, just for example, you know, people think that I know everything about my wife's patients, but we don't talk about any of that. And, it comes down to professional responsibility and professional integrity.

And, I've known Ms. de Naie for quite some time, and I believe that she has the, that, that professional integrity to compartmentalize and wear multiple hats, and make sure that she's abiding by her fiduciary duties in all organizations and positions that she's in. So, you know, where I stand. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you. And, I, I, I believe that, I'll close discussion unless somebody has something really burning to say, and put it in this manner. Like you, Mr. Guzman, my wife doesn't know anything I do. She finds out from the public more than, than I tell her. So, that's one issue.

But, you know, we all know our boundaries. And, I hope Ms. de Naie, you know your boundary. I trust you. I believe you can. And, all those that sat out there and waiting with breathless abandon waiting to see what we're going to do, we're going to vote right now.

So, I call for the question. All those in favor of approving Ms. Lucienne de Naie, or Antonio *[sic]* de Naie to the Board of Water Supply, signify by saying "aye".

COUNCILMEMBER COCHRAN: Aye.

COUNCILMEMBER BAISA: Aye.

COUNCILMEMBER CARROLL: Aye.

COUNCILMEMBER VICTORINO: Opposed.

COUNCILMEMBER COUCH: No.

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER VICTORINO: Let's take a roll count. I, I think I, I think I counted three but let's go ahead.

Mr. Clerk.

COUNTY CLERK:	Councilmember Robert Carroll.
COUNCILMEMBER CARROLL:	AYE.
COUNTY CLERK:	Councilmember Gladys Coelho Baisa.
COUNCILMEMBER BAISA:	AYE.
COUNTY CLERK:	Councilmember Elle Cochran.
COUNCILMEMBER COCHRAN:	AYE.
COUNTY CLERK:	Councilmember Don Couch.
COUNCILMEMBER COUCH:	NO.
COUNTY CLERK:	Councilmember Stacy Crivello.
COUNCILMEMBER CRIVELLO:	AYE.
COUNTY CLERK:	Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA:	NO.
COUNTY CLERK:	Council Vice-Chair Don S. Guzman.
VICE-CHAIR GUZMAN:	AYE.
COUNTY CLERK:	Council Chair Mike White.
COUNCILMEMBER VICTORINO:	EXCUSED.
COUNTY CLERK:	Councilmember Pro Temp Michael P. Victorino.
COUNCILMEMBER VICTORINO:	AYE.

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, CRIVELLO, VICTORINO, AND  
VICE-CHAIR GUZMAN.

NOES: COUNCILMEMBERS COUCH AND HOKAMA.

EXCUSED: CHAIR WHITE.

COUNTY CLERK: Six "ayes", Mr. Chair, two "noes", and one "excused".

COUNCILMEMBER VICTORINO: The motion pass. Thank you very much.

Ladies and gentlemen with, with your concurrence, I would like to take up item, or Bill No. 28 for Ms. Baisa, cause she has to be leaving very shortly.

So, with no objections, I'd like to move that up right now and then we'll continue on the calendar. No objections?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER VICTORINO: Okay, Mr. Clerk, will you call up Bill 28.

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 28 (2016)

A BILL FOR AN ORDINANCE TO AUTHORIZE AGRICULTURAL WATER RATES  
FOR PROPERTIES OWNED, OPERATED, OR MANAGED BY THE UNIVERSITY  
OF HAWAII COLLEGE OF TROPICAL AGRICULTURE AND HUMAN  
RESOURCES

COUNCILMEMBER VICTORINO: Ms. Baisa.

COUNCILMEMBER BAISA:

MR. CHAIR, I MOVE TO PASS BILL 28 (2016) ON SECOND  
AND FINAL READING.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION, CHAIR.

COUNCILMEMBER VICTORINO: We have a motion by Ms. Baisa, seconded by Ms. Crivello, to approve the Bill 28, an ordinance for authorization of agricultural

water rates for the properties, owned, operated, and managed by the University of Hawaii, Hawaii College of Tropical and Human Resources, Tropical Ag and Human Resources.

Go ahead, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much. You did a great job, so I won't repeat all of that. But, this bill passed first reading and it does offer agricultural water rates to the College of Tropical Agriculture and Human Resources at the University of Hawaii at Manoa.

A representative stated the College's purpose is to conduct ag research, not to generate income. The proposed measure would reduce the College's annual water charges by approximately 8,000. That may sound like a small amount, but it's a lot to them.

I'd like to also note that the Water Department supports the proposed bill.

And, I respectfully ask for the Council's full support. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you.

Any further discussion?

COUNCILMEMBER COCHRAN: Chair.

COUNCILMEMBER VICTORINO: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: I believe during the Committee deliberations, I was the sole no vote on this, and I stated my, my justification. And, basically, not having to do with the entity and doing the research and educational components that they, they do a good job on, but it's the Upcountry area where ag is used with potable water. And, potable water is definitely at a high premium. That people want to alleviate that water meter list, and what have you.

And so, and they did not meet the criteria as in \$1,000 of charitable donations, or in-kind of ag income. As you mentioned, that's not what they're set up to do. So, that is why Department of Water did not give them the ag water rates, and we are now inserting language in order to do so.

So, those were my, my comments and to my reasoning for not allowing, because I would like the water to continue to grow, actually ag. And, that's where I stand on my vote. Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you.

Any other comments?

And, I'll close with saying that the, you're agree, although I agree with what you're saying, the Tropical Ag Division of the, of the University of Hawaii has been instrumental in helping us develop a number of crops, or even finding cures and, and methods of curing diseases that have occurred throughout this State. So, that is my reasoning for support on this entity, because it is an integral part of our agricultural business throughout the State of Hawaii.

So, with no further ado, all those in favor, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COUCH,  
CRIVELLO, VICTORINO, AND  
VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: COUNCILMEMBERS COCHRAN AND HOKAMA.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Okay. I think I counted two "noes", so a, you say "no" Mr. Guzman. No. Oh, Mr. Hokama and Ms. Cochran. Okay, so let the record show six "ayes", two "noes", and one "excused". Thank you very much.

Thank you, Ms. Baisa. And, you know, if you want to stay for a few more items and then you have to leave, that's fine. I understand.

COUNCILMEMBER BAISA: Thank you, Chair. I appreciate it.

COUNCILMEMBER VICTORINO: Mr. Chair, I mean, Mr. Clerk. I'm sorry, I missed you.

COUNTY CLERK: Yea, thank, thank you, Mr. Chair.

For the record, relative to Committee Report 16-48, RESOLUTION NOS. 16-42 on through 16-51.

COUNCILMEMBER VICTORINO: Thank you for that clarification. I apologize to you, Mr. Clerk.

COUNTY CLERK: Mr. Chair, may I have a brief recess please.

COUNCILMEMBER VICTORINO: Sure, go ahead.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:02 P.M., AND WAS RECONVENED AT 12:03 P.M., WITH ALL MEMBERS PRESENT, EXCEPT CHAIR WHITE, EXCUSED.)

COUNCILMEMBER VICTORINO: The meeting of the regular Council of March, County Council meeting of March 18, 2016, will reconvene.

Mr. Clerk, go ahead.

COUNTY CLERK: Thank you, Mr. Chair. Proceeding with county communications.

### COUNTY COMMUNICATION

NO. 16-44 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,  
(dated February 22, 2016)

Transmitting 21 contracts/grants for the month ending January 2016.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: I apologize, Chairman, for the distraction.

With no objections, if the Clerk will also bring up County Communications 16-45, 46, 47.

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER VICTORINO: No objections. Okay, thank you. I was going to ask if anybody has any objections.

Mr. Clerk.

NO. 16-45 - TIVOLI S. FAAUMU, CHIEF OF POLICE,  
(dated March 3, 2016)

In accordance with Resolution No. 90-82, informing of the receipt of \$24,547.53 in Forfeiture Funds from the Department of the Attorney General.

NO. 16-46 - TIVOLI S. FAAUMU, CHIEF OF POLICE,  
(dated March 3, 2016)

In accordance with Resolution No. 90-82, informing of the receipt of \$20,379.80 from the U.S. Marshals Service.

NO. 16-47 - TIVOLI S. FAAUMU, CHIEF OF POLICE,  
(dated March 4, 2016)

In accordance with Resolution No. 90-82, informing of the receipt of \$5,480.50 in Forfeiture Funds from the Department of the Attorney General.

COUNCILMEMBER VICTORINO: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, MOVE THAT COUNTY COMMUNICATIONS  
16-44, 45, 46, 47, BE FILED.

COUNCILMEMBER COUCH:

SECOND.

COUNCILMEMBER VICTORINO: It's been moved by Mr. Hokama, and seconded by Mr. Couch to file County Communications 16-44, 45, 46, and 47.

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion.

COUNCILMEMBER VICTORINO: Any other discussion? All those in favor signify by saying "aye".



AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: Let the record show eight "ayes", no "noes", and one "excused".

Moving on, Mr. Clerk.

NO. 16-48 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,  
(dated March 3, 2016)

Transmitting copies of the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending February 2016.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

I MOVE TO FILE THE REPORT.

COUNCILMEMBER COUCH:

SECOND.

COUNCILMEMBER VICTORINO: It's been moved by Ms. Baisa, and seconded by Mr. Couch to file County Communication 16-40 *[sic]*, I mean, yea, County Communication 16-44 *[sic]*.

Ms. Baisa.

COUNCILMEMBER BAISA: No further discussion.

COUNCILMEMBER VICTORINO: 48, 48, correction, correct.

COUNCILMEMBER BAISA: No further discussion, Chair.

COUNCILMEMBER VICTORINO: Thank you, was 48.

Seeing no other discussion, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, AND VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: So, let the record say eight "ayes", no "noes", and one "excused".

Moving right along, Mr. Clerk.

(Councilmember Baisa was excused at 12:05 p.m.)

COUNTY CLERK: Mr. Chair, the following county communications are recommended for referral to the following Committees as noted.

NO. 16-49 - LANCE T. TAGUCHI, COUNTY AUDITOR,  
(dated February 26, 2016)

Transmitting the Single Audit Report, Management Advisory Report, and the required communications letter for the Fiscal Year Ended June 30, 2015, submitted by N&K CPA's Inc.

The recommended action is that County Communication No. 16-49 be referred to the Budget and Finance Committee.

NO. 16-50 - ALAN M. ARAKAWA, MAYOR,  
(dated March 3, 2016)

Transmitting the summary of cost items and a proposed resolution entitled "APPROVING COST ITEMS FOR UNIT 14, OCEAN SAFETY OFFICERS".

The recommended action is that County Communication No. 16-50 be referred to the Budget and Finance Committee.

NO. 16-51 - LANCE T. HIROMOTO, DIRECTOR OF PERSONNEL SERVICES,  
(dated March 2, 2016)

Transmitting a report of the reclassification of positions that were transferred from one compensation plan to another for the calendar year 2015.

The recommended action is that County Communication No. 16-51 be referred to the Budget and Finance Committee.

NO. 16-52 - MIKE WHITE, COUNCIL CHAIR,  
(dated March 10, 2016)

Relating to improvements at Baldwin Beach Park, Paia.

The recommended action is that County Communication No. 16-52 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

NO. 16-53 - CAROL K. REIMANN, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated February 25, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.34.090 AND 14.35.080 RELATING TO THE EXEMPTIONS FOR THE WASTEWATER ASSESSMENT FEES FOR FACILITY EXPANSION AND COLLECTION/TRANSMISSION SYSTEM UPGRADE".

The recommended action is that County Communication No. 16-53 be referred to the Housing, Human Services, and Transportation Committee.

NO. 16-54 - JEFFREY A. MURRAY, FIRE CHIEF,  
(dated February 29, 2016)

Transmitting copies of the Maui Fire Department Master Strategic Plan (2016-2020).

The recommended action is that County Communication No. 16-54 be referred to the Policy and Intergovernmental Affairs Committee.

NO. 16-55 - MICHAEL P. VICTORINO, PRESIDING OFFICER PRO TEMPORE,  
(dated March 11, 2016)

Relating to the notification of Council's opportunity to nominate an individual to the Cost of Government Commission.

The recommended action is that County Communication No. 16-55 be referred to the Policy and Intergovernmental Affairs Committee.

COUNCILMEMBER VICTORINO: And, the Chair will request if there's any of the following County Communications that are recommended to and referred to the following Committees as noted, is there any objections or considerations for another Committee? Seeing none, thank you.

Moving right along. Mr. Chair, I mean, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with ordinance for second and final reading.

## ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 25 (2016)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE -  
SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS,  
DEPARTMENT OF POLICE  
(HAWAIIAN COMMERCIAL & SUGAR COMPANY (HC&S)  
COMMUNITY INITIATIVE GRANT PROGRAM)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, no objections, I would ask the Clerk to bring up Bills 26 and 27.

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER VICTORINO: Go ahead, no objections. Go ahead, Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 26 (2016)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO ESTIMATED REVENUES;  
DEPARTMENT OF FIRE AND PUBLIC SAFETY,  
ADMINISTRATION/MAINTENANCE PROGRAM;  
TOTAL OPERATING APPROPRIATIONS; AND  
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 27 (2016)

A BILL FOR AN ORDINANCE AMENDING  
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI  
AS IT PERTAINS TO ESTIMATED REVENUES;  
DEPARTMENT OF FINANCE, ACCOUNTS PROGRAM;  
TOTAL OPERATING APPROPRIATIONS; AND  
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

COUNCILMEMBER VICTORINO: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILLS 25, 26, 27 PASS SECOND  
AND FINAL READING.

COUNCILMEMBER COUCH:

SECOND.

COUNCILMEMBER VICTORINO: It has been moved by Mr. Hokama, and seconded by Mr. Couch to approve on, on second and final reading, Bills 25, 26, and 27.

Any discussion? Mr. Hokama.

COUNCILMEMBER HOKAMA: No discussion.

COUNCILMEMBER VICTORINO: Any other from the Members? Seeing none, all those in favor, signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN,  
COUCH, CRIVELLO, HOKAMA, VICTORINO, AND  
VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Opposed.

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA AND CHAIR WHITE.

COUNCILMEMBER VICTORINO: So, let the record show seven "ayes", no "noes", and two "excused"; Ms. Baisa and Mr. White.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, there is no further business before the Council.

COUNCILMEMBER VICTORINO: Thank you. First of all, I would like to thank all my Councilmembers today for allowing me this opportunity. And, we did have a pretty heavy agenda, and thank you for moving through it and, and really accomplishing what we needed to accomplish today.

I'd like to thank Corporation Counsel Wong for being here today and, and, and addressing some of our concerns. Our County Clerk and his wonderful staff that is here, Mr. Raatz and his staff; thank you for your assistance today.

And, again, the only other thing I'll add on a point of personal privilege is "Go Bows". I hope the ladies tomorrow win, and, and we had this, this momentum continues for the State of Hawaii and the County of Maui, cause we're all so proud of them.

So, with no further discussion, we do have a 1:30 COW meeting. I will make sure that that's announced for you, Mr. Guzman. So, 1:30 we will have a COW meeting right here in this chamber.

So, with no other discussion, the meeting of the County Council regular meeting for March 18, 2016, is now adjourned.

### ADJOURNMENT

The regular meeting of March 18, 2016 was adjourned by the Chair at 12:11 p.m.



DENNIS A. MATEO, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

I am submitting this testimony for the Friday, March 18<sup>th</sup>, 2016 meeting at 9:00am of the Maui County Council. This is in reference to Agenda Item: No. 16-44 under Committee Reports of the Economic Development, Energy, Agriculture and Recreation committee. It is a resolution for a lease of real property to the Tom Morrow Equestrian Arena. I would appreciate this testimony being submitted to the County Council. Mahalo

Aloha Maui County Council Members,

I am testifying in support of the renewal of the Lease of Real Property for the Tom Morrow Equestrian Arena. It is located in the back of the 4<sup>th</sup> Marine Park on Kokomo Rd. in Halku. The arena has been successfully operating as a community arena for over 13 years and has served many riders during this time. We would like to continue Tom Morrow's dream to have a community arena available to all horse owners to enjoy riding in a safe environment for now and for future generations.

The Tom Morrow Equestrian Arena volunteer management has provided this opportunity for the community. The facility is well maintained and available on a daily basis for use.

I appreciate your time and consideration on this matter.

Susan Guille  
Board of Directors  
Tom Morrow Equestrian Arena  
[guille@hawaiiantel.net](mailto:guille@hawaiiantel.net)  
283-3431

RECEIVED  
2016 MAR 15 AM 7:50  
OFFICE OF THE  
COUNTY CLERK



TO:

The Honorable Don Guzman, Chair  
Economic Development, Energy, Agriculture and Recreation Committee

The Honorable Elle Cochran, Vice Chair

and Members of the Maui County Council

FROM:

Sharon Freitas, President  
Board of Directors, Tom Morrow Equestrian Center

DATE: March 18, 2016

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COUNTY CLERK

TESTIMONY IN SUPPORT OF EAR-48 - Resolution Authorizing a Grant of a Lease of  
County Recreational Land to the Tom Morrow Equestrian Center

Aloha Council Members,

I am Sharon Freitas, here to speak in support of the Resolution to Grant a Lease of County Recreational Land to the Tom Morrow Equestrian Center.

I represent the support of it's Board of Directors, as it's President.

As you know, the Tom Morrow Equestrian Center has managed and operated the arena facility since it opened in 2002. In all of that time we have not come back to the county for funds to run this arena. We have paid our own bills and kept it self-sufficient, and we intend to keep it that way.

The arena was conceived as a facility open to anyone in the community, and it continues to welcome riders of all different disciplines. It is different from other arenas because it is not limited to the members of a club or any one group.

The hundreds of individuals and families that have used the arena over the years have found it to be well - maintained and always open for their recreational use.

The arena has also served the community by hosting many events. Horse shows, competitions, clinics and practices have been held there; and it continues to be available for these organized activities.

Over the years, other arenas have been built as private facilities; and these have offered alternatives for some riders. However, our Tom Morrow arena remains the one equestrian facility open to everyone, that we know of.

At this time, when the days of riding freely across the island are long gone, and options for getting out somewhere to ride safely are very limited; a facility like the Tom Morrow Equestrian Center arena is needed more and more by the community.

We all value the agricultural character and lifestyle of this island. Horses and riding have contributed to this history and tradition since they were introduced to these islands more than 200 years ago.

We are fortunate that our equestrian heritage continues today, in the lives of many residents and families who devote their time, their effort, their money, their property, and their passion to it. It was this important tradition and history that Tom Morrow wanted to acknowledge and perpetuate, by building this arena.

Our board has a vision that the arena will continue to be there in the future as a recreational resource for the community; and it will continue to be well-maintained, well-managed, safe and self-sufficient; and open to everyone. We are committed to this.

We ask that you grant this lease to the Tom Morrow Equestrian Center, and thank you for your kind consideration.

End of Testimony

Office of the County Clerk at [county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us)  
Council of the County of Maui Committee of the Whole - March 18,  
2016

Aloha kakou,

I wish to publicly testify regarding the serious violations of the County Code and Charter and the public trust that have occurred with respect to the agreements with land developers to shift cost of their roadway infrastructure to the tax payers, which have only been made visible to the citizens of Maui County through the valiant efforts of Chris Salem.

"Coach Chris", is a longtime volunteer in the West Maui Youth Programs, and has spent countless hours over the last few years teaching my grandchildren the valuable life lessons of fair play and consequences of acting outside the established rules.

I first became aware of this breach of public trust and misuse of public funds when I attended a DOT meeting last fall in Lahaina wherein after the meeting I asked Senator Roz Baker about this issue. Her response was that County has clearly been grossly negligent for a long time. After a lengthy conversation, her solution was the County should probably just admit their wrongdoings, and just erase the developer agreements. Or, she stated, a private citizen should just 'hire an attorney'.

From what I heard from one of the parents of my grandchildren's teammates, Mr. Salem has reluctantly taken legal action against the administration, realizing all too well he would come under personal attack as a whistleblower. From what I have learned by looking through the documents, the Department of The Corporation Counsel is now retaliating against "Coach Chris", a former employee of the Council, by filing a counter-suit against him which explicitly seeks to silence Mr. Salem and to intimidate you, our elected Council Officials, and your legislative assistants.

Are we defending the public interest by spending public funds to defend the administrations repeated acts of defiance without first launching an investigation and explaining to the public the conclusions of your member's findings? The fact the administration has concealed these developer agreements for all these years' reveals the clear intent to deceive us all.

I ask the members of the Council today, before you approve this resolution and spend more of our hard earned money, can you state with a clear conscience that there is no guilt on the part of the administration as alleged? Again, as stated in the Charter, this blatant misconduct of the administration must be investigated by the members of the Maui County Council, and before any more of the citizen's money is spent on litigation, the final conclusions made transparent to the residents of Maui County.

Mr. Guzman, from what I have also learned, do you not currently employ Council Member Jo Anne Johnson's former lead assistant who has firsthand knowledge of this entire mess? Full disclosures should be made available of the content of all these agreements, and anyone on this Council who has any personal interest in defending them.

So we are clear on my position and personal background, I have worked on committees for the election of numerous esteemed politicians, including John F. Kennedy. I am personally prepared to publish notice of a petition for responsible government, demanding this Council either collect upon these developer agreements, or erase them from citizen's property titles as Senator Baker suggests under the umbrella of the administrations "gross negligence".

On a personal level, I must express my witnessing of the impact on Coach Chris' wife and family and two beautiful young children. It takes my breath away. While dealing with all this frustration and personal sacrifice, Coach Chris was just voted by his peers as Coach of the Year in my grandson's youth basketball league.

Mr. Victorino, I can only imagine the joy you receive from the benefits of coaches like Chris that dedicated their free time to your family. Would you please step forward and lead this cause for benefit of our community? Did I not read in a Maui News cover story years ago that you promised to do so on this very issue?

Perhaps we should all take a hard look at the message we are sending to our children and our constituents by not joining the team of right action.

Respectfully submitted,

Marilyn McAteer

alohaoceanus@yahoo.com

4790 Lower Honoapiilani Road,

Lahaina HI 96761

808 633-4572

## County Clerk

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**From:** Barbara Barry <begoniabarry@gmail.com>  
**Sent:** Monday, March 14, 2016 2:03 PM  
**To:** County Clerk  
**Cc:** Dave.Taylor@co.maui.hi.us; pat.wong@mauicounty.gov;  
Mayors.Office@mauicounty.gov  
**Subject:** Ms. Lucienne DeNaie Appointment to the Maui County Water Supply Board.

Aloha Public Servants,

I am writing today in strong support of Ms. Lucienne DeNaie qualifications and urge you to vote yes she can be allowed to volunteer her time and serve her community as a member of the Board of Maui County Water Supply. Rarely do we get such a respected and trustworthy member of our community to be willing to serve the community as we have in Ms. DeNaie.

If she would be considered un-qualified because of her association with the Sierra Club and Maui tomorrow, two groups who care deeply about protecting our natural resources, then why isn't it a conflict of interest to have positions like this one filled with those community members who want to exploit the natural resources? Isn't the Boards job to enforce the Public Trust Doctrine?

Please do the right thing for our County and do not delay any further in allowing Ms. DeNaie to serve on the Water Supply Board.

Mahalo,

Ms. Barbara Barry  
1220 W. Kuiaha Rd.  
Ha'iku, Hawaii  
96708

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2016 MAR 14 PM 4:34  
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## County Clerk

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**From:** Sandi Ioakimi <sioakimi@gmail.com>  
**Sent:** Monday, March 14, 2016 1:20 PM  
**To:** pat.wong@mauicounty.gov; Dave.Taylor@co.maui.hi.us;  
Mayors.Office@mauicounty.gov; County Clerk  
**Subject:** Lucienne DeNaie Board of Water Supply Nomination

I support Lucienne DeNale to the Board of Water Supply. She has proven herself to be knowledgeable on many issues including water issues on the island. The council voted 6-1 in favor of her.

Please support the council and the will of the people.

Aloha,

Sandi Ioakimi  
Kihei  
808.283.6216

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## County Clerk

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**From:** outlook\_945bcbf227049f41@outlook.com on behalf of Joseph Kohn  
<joseph@weareone.cc>  
**Sent:** Monday, March 14, 2016 12:18 PM  
**Subject:** SUPPORT Lucienne DeNaie for Board of Water Supply

SUPPORT APPROVAL of Lucienne DeNaie for Board of Water Supply. She supports the majority opinion of the people of Maui County.

Joseph Kohn MD  
1268 W Hiahia Pl  
Wailuku, HI 96793-9762  
808-359-6605  
Joseph@WeAreOne.cc  
www.WeAreOne.cc

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## Lucienne for Water Board

GM Geoffrey Moore <geoffm@silvermoonmaui.com>

Reply all |

To: ☐ County Clerk;

Tue 3/15/2016 12:58 PM

Aloha,

I want to show my support once again for Lucienne de Naie a position on the Board of Water Supply. I understand there could be a challenge to her appointment based on her affiliations with environmental organizations. I can assure you that Lucienne is a person of high ethics and that she would handle her position without bias. Her interest has always been with the public's greater good, and she is highly qualified for the position.

Thanks for your consideration.

Sincerely,

Geoff

Silver Moon Art & Design  
Geoffrey T. Moore, Owner  
808.579.6402  
Cell: 808.572.1963  
Mail: P.O. Box 792018  
Pa'ia, HI 96779  
Office: 71 Baldwin Ave., Ste. C7  
[www.silvermoonmaui.com](http://www.silvermoonmaui.com)

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## Confirm my support for Lucienne De Naei's nomination on Board of Water Supply

MC Maria Cassandra <love@lightweavingjoy.com>  
To: ☐ County Clerk;

Reply all |

Tue 3/15/2016 2:05 PM

Dear Friends,

Aloha! I want to confirm my support for the nomination of Lucienne de Naei for the Board of Water Supply.

She has done many years of research in this area for the County of Maui, and I feel is the best person to take on the responsibilities of the task, and take care of everything with the highest of integrity and know-how.

If you would my personal recommendation, I would be happy to connect with you.  
Please feel free to call me.

Mahalo Nui Loa,  
Patricia Gardner

800A East Kuiaha Road  
Haiku, HI 96708  
808.572.7950  
[love@lightweavingjoy.com](mailto:love@lightweavingjoy.com)

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## Support Lucienne de Naie for Board of Water Supply

ST Stillwell <stillys@hawaii.rr.com>  
To: ☐ County Clerk;

Reply all |

Tue 3/15/2016 2:01 PM

To help protect your privacy, some content in this message has been blocked. To re-enable the blocked features, click here.

To always show content from this sender, click here.

## Action Items

Aloha Council Members,

We respectfully request that you support and approve the appointment of Lucienne de Naie to serve on the Board of Water Supply. There is no one on this island that has more knowledge or expertise on all things water-related than Lucienne. If she doesn't know something, she will research it until she does and becomes an expert. Her integrity is beyond reproach. She has served the people of this island for well over 20 years working tirelessly and cheerfully and has dedicated her life to keeping Maui no ka 'oi. You will have no better candidate than Lucienne de Naie.

Mahalo nui loa,  
Patricia and Jefferson Stillwell  
Kihei

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## In Support of Lucienne de Naie for BOW

|| DG Debra Greene, PhD <debra@DebraGreene.com>

Reply all |

To: ☐ County Clerk; Cc: ☐ pat.wong@mauicounty.gov; ☐ Dave.Taylor

Tue 3/15/2016 4:49 PM

Aloha,

I want to go on record in support of Lucienne de Naie for Maui County Board of Water. She is eminently qualified for this position, having authored a well-regarded 200 page report on Maui's water resources. She has repeatedly demonstrated her high level of personal integrity and deep care for this community over 20+ years in ways too many to mention. Lucienne works tirelessly for the good of Maui County in areas of land use, cultural preservation and community concerns. She would be a valuable asset to the Board of Water.

Sincerely,

Debra

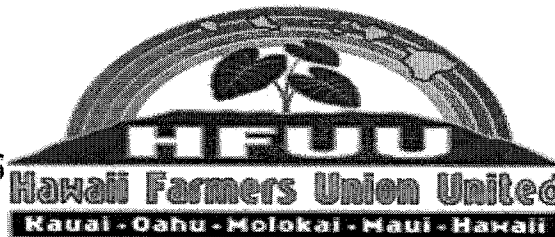
Debra Greene, PhD  
Kihei, Maui  
[debra@debragreene.com](mailto:debra@debragreene.com)

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2016 MAR 16 AM 8:05

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P.O. Box 99, Wailuku, HI 96793-0099

March 15, 2016

## Support for Antoinette Lucienne de Naie for Board of Water Supply Director

HFUU Board of  
Directors

Vincent Mina  
*President*  
HFUU

Aloha Chair Victorino, Vice-Chair Couch and Honorable members of the committee

Ray Maki  
*Vice-President*  
HFUU

Hawaii Farmers Union United and its certified 812 members is in strong support of Lucienne de Naie appointment as a member serving on the Board of Water Supply. Lucienne has been a diligent servant of the public interest for decades, and has depth of knowledge and wisdom with regards to water sourcing and water usage policy.

Anny Bruch  
*Secretary*  
HFUU

We know Lucienne is not opposed to developing new sources of water for Maui County to use, and considers human use a legitimate use for our water resources.

Karen Reid  
*Treasurer*  
HFUU

We assert that in the best interest of the citizens of Maui County she is able to serve on the Board of Water supply, especially as many critical decisions about our watersheds and long term water policy need updating, with careful consideration through wise action and measured results in moving forward.

Kyle Studer  
East Hawai'i

Nate Hayward  
Kohala

Our advocating to see agricultural production in feeding our island people grow while we transition away from sugar, along with changes in the amount of water needed for central Maui from the East Maui Watershed, we respectfully request that Lucienne be in there to share her mana'o with the other members of the board, as well as with her constituents in East Maui to collaborate for a sound policy managing this most important natural resource in filling all our needs.

Greg Smith  
Ka'u

We feel Lucienne will be an asset to the Board and to a water abundant future for Maui Island. We Mahalo You for considering her for this important appointment.

Simon Russell  
Haleakala

Mahalo,  
HAWAII FARMERS UNION UNITED

James Sempliciano  
Mauna Kahalawai

Vincent Mina, President

Mikala Minn  
Hana

Pamela Boyar  
Oahu

*The Hawai'i Farmers Union United and its Chapters is a nonprofit corporation formed under Hawai'i law. It advocates for the sovereign right of farmers, ranchers and fishers to create and sustain vibrant and prosperous agricultural communities for the benefit of all Hawai'i through cooperation, education*

Reply all | Delete Junk |

Fw: Lucienne

KP Kachina Palencia <kachinala@outlook.com>  
To: ☐ County Clerk;

Reply all |

Wed 3/16/2016 9:52 AM

Sent from Windows Mail

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**From:** Kachina Palencia**Sent:** Wednesday, March 16, 2016 9:51 AM**To:** mayorsOffice@mauicounty.gov, pat.wong@mauicounty.gov, Dave.Taylor@co.maui.hi.us**Cc:** Kachina Palencia

Dear deciders,

Please support Lucienne. Her ethics, and steadfast efforts to give evidence of how to be "pono" speak well for her. I have known her 25 years.

She is still volunteering to correct potential errors in advance.

She is unique.

Aloha, Pamela Palencia

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## Testimony in support of Lucienne Denaie's Nomination

BS Bonnie Starr Marsh <naturadoc@gmail.com>  
To: ☐ County Clerk; Cc: ☐ pat.wong@mauicounty.gov; ☐ dave.taylor@...

Reply all |

Wed 3/16/2016 2:20 PM

### Action Items

Aloha to the County Council,

I would like to support the Nomination of Lucienne Denaie's for the Board of Water Supply.

I have known Lucienne for many years and know her to be objective and always putting our community needs first.

She is involved in many environmental groups here on Maui to help protect the aina and citizens of this Island.

Please put aside any affiliations that she may have that would block her nomination.

Mahalo,

Dr. Bonnie Marsh

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**County Clerk**

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**From:** Bonnie Newman <bonnienewman10@gmail.com>  
**Sent:** Wednesday, March 16, 2016 4:42 PM  
**To:** County Clerk; pat.wong@mauicounty.gov; Dave.Taylor@co.maui.hi.us;  
Mayors.Office@mauicounty.gov  
**Subject:** in support of Lucienne deNaie for Water Board

**Aloha - I have had the privilege of knowing Lucienne deNaie for almost 30 years, the entire time I have been a full-time resident of Maui.**

**She is one of the most intelligent, capable and involved people I know; of the highest integrity; and has much experience with the issues challenging Maui in its continued growth.**

**Lucienne has already studied the water issues in depth and knows the Island extremely well.**

**You will be doing all of Maui a great service to have her on the Water Board to shepherd the positive future of our beautiful island Home. Please support her. Mahalo!**

**Respectfully submitted - Bonnie Newman, 3500 Kehala Drive, Kihei - 283-0645**



--  
Bonnie Newman  
*The Singing Realtor*  
808 / 283-0645

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## County Clerk

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**From:** paulalee <paulalee@hawaii.rr.com>  
**Sent:** Wednesday, March 16, 2016 10:15 PM  
**To:** County Clerk  
**Subject:** Water Board nomination

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2016 MAR 17 AM 9:16

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Aloha County Council Members,

Please support the nomination of Lucienne DeNaie to serve on the Water Board. She truly represents the majority of the North Shore community. She is very knowledgeable and is a very ethical person.

It would be a shame to allow the Administration to discredit her capability and worthiness to serve on this board.

Again please support her nomination.

We need more highly qualified and educated people on the board and Lucienne is a wonderful choice.

Mahalo,

Paula Phillips  
28 Laupapa Place  
Haiku, HI 96708



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## County Clerk

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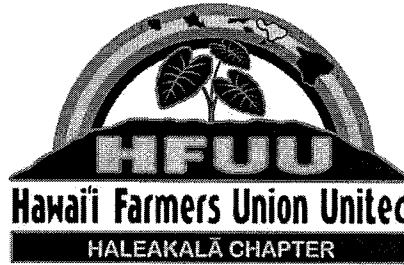
**From:** sunny savage <sunnysavage@gmail.com>  
**Sent:** Wednesday, March 16, 2016 5:16 PM  
**To:** County Clerk  
**Cc:** pat.wong@mauicounty.gov; Dave.Taylor@co.maui.hi.us;  
Mayors.Office@mauicounty.gov  
**Subject:** Lucienne DeNaie's - Board of Water Supply

Aloha,

My name is Sunny Savage-Luskin and I have known Lucienne DeNaie for several years. She is a dedicated community person, knowledgeable, and shows incredible dignity in her treatment of others. I am in strong support of her APPROVAL to the Board of Water Supply.

Sincerely,  
Sunny Savage-Luskin

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March 17, 2016

**HFUU Haleakala  
Board of  
Directors**

**Support for Antoinette Lucienne de Naie to  
Be appointed to the Board of Water Supply**

Simon Russell  
*President*

Aloha Chair Victorino, Vice-Chair Couch and Honorable members of the committee

Phyllis Robinson  
*Vice-President*

Hawaii Farmers Union United Haleakala Chapter is in strong support of Antoinette Lucienne de Naie as a member serving on the Board of Water Supply.

Jenny Pell  
*Secretary*

Lucienne has been a diligent servant of the public interest for decades, and has deep wisdom with regards to water sourcing and water usage policy.

Melissa Jenks-Olivit  
*Treasurer*

We know Lucienne is not opposed to developing new sources of water for Maui County to use, and considers human use a legitimate use for our water resources.

Susan Campbell  
*Member*

We believe it in the best interest of the citizens of Maui County that she is able to continue to serve our interest on the Board of Water supply, especially as many critical decisions about our watersheds and long term water policy need updating and careful consideration and measured and wise action.

Tara Grace  
*Member*

With the transition away from sugar and a change in the amount of water needed for central Maui from the East Maui Watershed, we need Lucienne in there to share her mana'o with the other members of the board, as well as with her constituents in East Maui.

John Dobovan  
*Member*

We feel Lucienne will be an asset to the Board and to a water abundant future for Maui Island.

Robert Ward  
*Member*

We mahalo you for considering her for this important appointment,

Michael Howden  
*Member*

Mahalo,  
HAWAII FARMERS UNION UNITED  
Haleakala Chapter

Sierra Knight  
*Member*

Simon Russell  
*President*

*The Hawaii Farmers Union United and its Chapters is a nonprofit corporation formed under Hawaii law. It advocates for the sovereign right of farmers, ranchers and fishers to create and sustain vibrant and prosperous agricultural communities for the benefit of all Hawaii through cooperation, education and legislation.*

## County Clerk

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**From:** Tulsi Greenlee <tulsigreenlee@icloud.com>  
**Sent:** Thursday, March 17, 2016 11:20 AM  
**To:** County Clerk  
**Cc:** pat.wong@mauicounty.gov; Dave.Taylor@co.maui.hi.us  
**Subject:** Lucienne DeNaie for board of water supply

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2016 MAR 17 AM 11:28

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COUNTY CLERK

Aloha,

I am emailing you today in strong support of Lucienne DeNaie for the board of water supply position.

Thank you for your time,  
Tulsi Greenlee

Sent from my iPhone

## County Clerk

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**From:** Joy Brann <jdbmaui@gmail.com>  
**Sent:** Thursday, March 17, 2016 11:47 AM  
**To:** County Clerk  
**Cc:** pat.wong@mauicounty.gov; Dave.Taylor@co.maui.hi.us;  
Mayors.Office@mauicounty.gov  
**Subject:** testimony in favor of Lucienne deNaie's appointment to Board of water Supply

Aloha,

Mahalo for your consideration of Lucienne deNaie to serve on the Board of Water Supply. It is clear from Corporation Counsel statements that there is nothing written in the County Charter or in any law that would disqualify Ms. DeNaie from volunteering on any Board due to her affiliation with organizations that may be in litigation over water issues. He reiterated that this issue does not "blanketly" disqualify her from serving on the Board.

I strongly support and urge Lucienne's nomination. Her voice on the Board of Water Supply is important to balance representation of all of Maui County interests.

Mahalo,

Joy Brann, MPH  
P.O. Box 881043  
Pukalani HI 96788  
jdbmaui@gmail.com

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